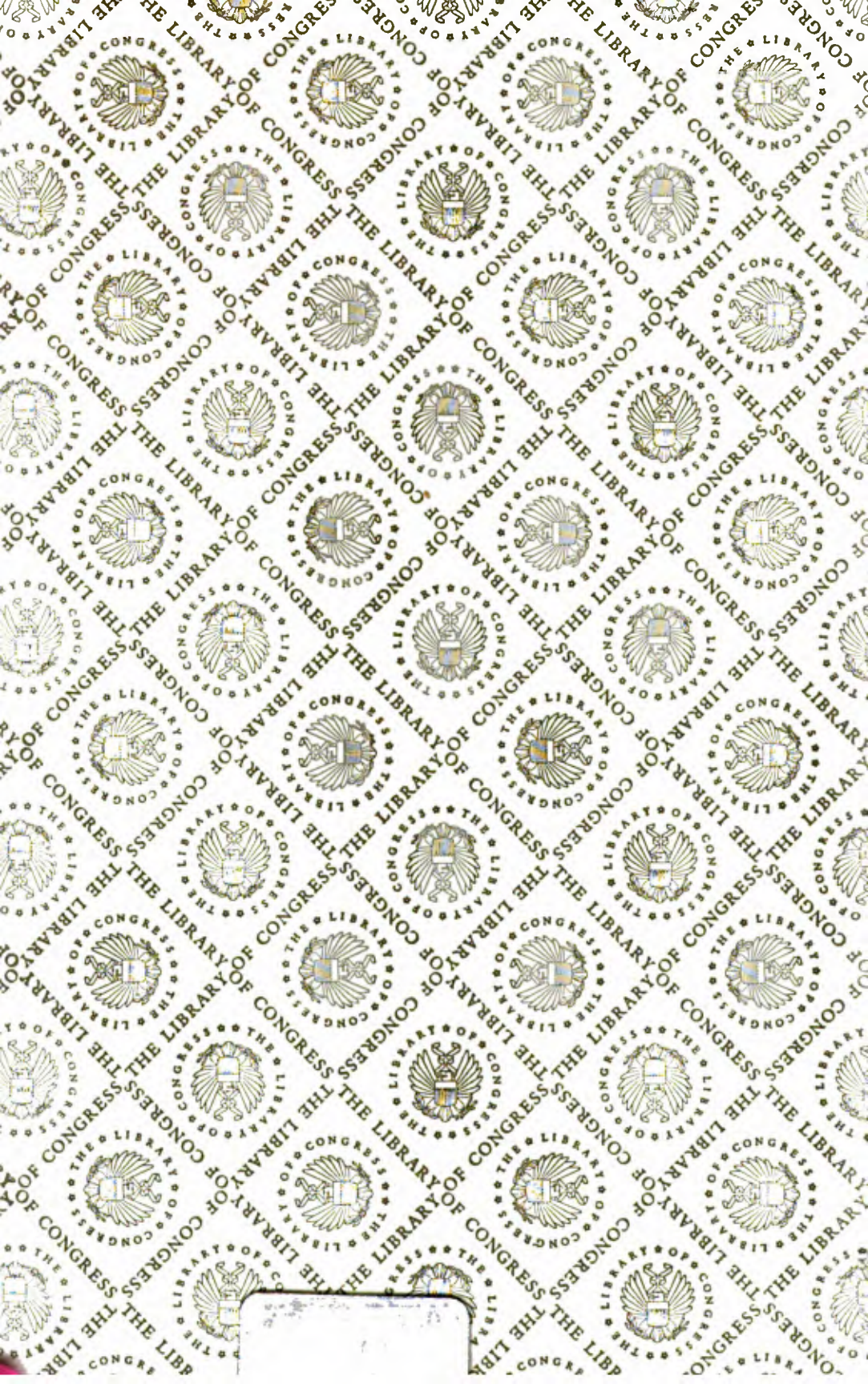


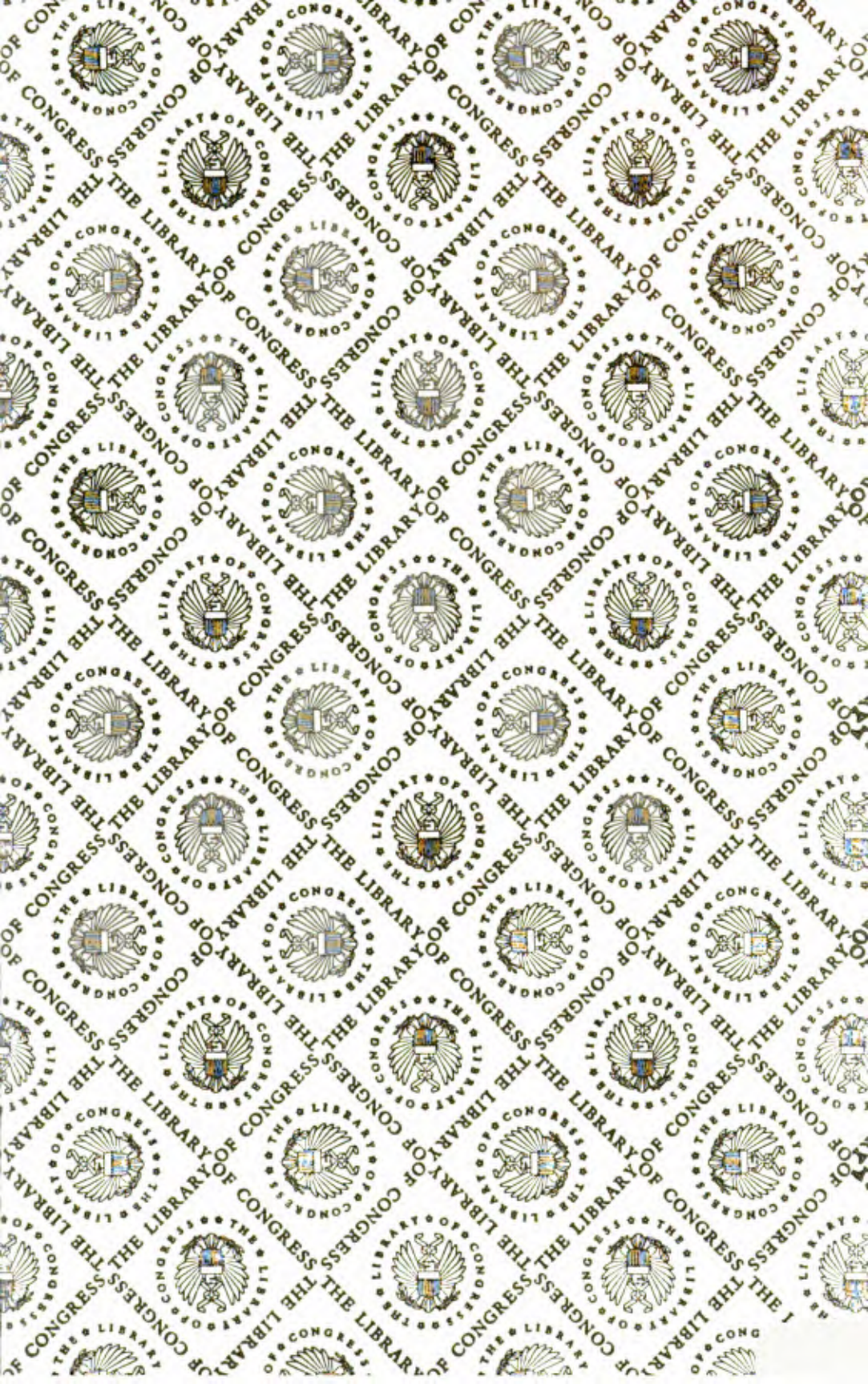
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**REAUTHORIZATION OF THE FEDERAL BUREAU OF  
PRISONS AND THE NATIONAL INSTITUTE OF  
CORRECTIONS**

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**HEARING**

BEFORE THE

**SUBCOMMITTEE ON INTELLECTUAL PROPERTY  
AND JUDICIAL ADMINISTRATION**

OF THE

**COMMITTEE ON THE JUDICIARY  
HOUSE OF REPRESENTATIVES**

*United States*  
"

**ONE HUNDRED SECOND CONGRESS**

**FIRST SESSION**

**APRIL 24, 1991**

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# REAUTHORIZATION OF THE FEDERAL BUREAU OF PRISONS AND THE NATIONAL INSTITUTE OF CORRECTIONS

WEDNESDAY, APRIL 24, 1991

HOUSE OF REPRESENTATIVES,  
SUBCOMMITTEE ON INTELLECTUAL PROPERTY  
AND JUDICIAL ADMINISTRATION,  
COMMITTEE ON THE JUDICIARY,  
*Washington, DC.*

The subcommittee met, pursuant to notice, at 11:10 a.m., in room 2237, Rayburn House Office Building, Hon. William J. Hughes (chairman of the subcommittee) presiding.

Present: Representatives William J. Hughes, Barney Frank, Carlos J. Moorhead, Howard Coble, and Hamilton Fish, Jr.

Also present: Hayden W. Gregory, counsel; Elizabeth R. Fine, assistant counsel; Veronica L. Eligan, staff assistant; and Thomas E. Mooney, minority counsel.

## OPENING STATEMENT OF CHAIRMAN HUGHES

Mr. HUGHES. The Subcommittee on Intellectual Property and Judicial Administration will come to order. Good morning.

Today, the subcommittee is conducting a 1-day oversight and reauthorization hearing on the Federal Bureau of Prisons and the National Institute of Corrections. The issues that Congress must face in addressing the expansion of our Federal and State prisons are enormous. They cannot be adequately addressed in a single hearing. This is, therefore, the first of a series of hearings on the present state and direction of our Nation's prisons that we will conduct in this session of Congress.

We confront unprecedented overcrowding in our Federal prisons today. Congress has been willing to enact legislation that extends the reach of the Federal criminal laws and increases criminal penalties. I have supported, and, in fact, advanced, many such measures to attack the level of crime in society. These laws have, however, swelled the Federal prison population. The Federal prison population stood at 23,000 in 1980 and exceeds 61,500 today. The cost of operating the Federal prison system has escalated as well. In fiscal year 1992, we are likely to spend over \$2 billion to operate and expand our system.

There are problems associated with the rapid expansion of the prison system today. The influx of inmates does not pause to allow new prisons to be built, correctional staff to be trained, new inmate work opportunities to be created, or drug treatment to be expand-

ed. I commend the Bureau of Prisons, and in particular Director Quinlan, for the yeoman efforts his agency has made to manage this enormous growth. But the problems that exist do not just encumber the Bureau of Prisons, they are Congress' problems as well. It is not enough for Congress to provide financial resources. We must work with the Bureau of Prisons to develop sensible plans for the management and expansion of our Federal prisons' system. But we must also reassess the policies that are creating this unprecedented and costly growth to determine whether there are more effective methods to decrease crime in our society.

Congress and the Federal Government must also help the States handle prison overcrowding. The National Institute of Corrections provides technical assistance and training to prison and jail administrators around the country. It is a small agency, but it is playing a leading role in developing programs to assure that our Nation's Federal and State correctional systems are well managed, safe, and provide effective punishment for criminal offenders.

I look forward to today's hearing.

The gentleman from California.

Mr. MOORHEAD. Thank you, Mr. Chairman. I would like to join you in welcoming our witnesses this morning, Mr. Michael Quinlan, Director of the Federal Bureau of Prisons, and Mr. Wayne Huggins, Director of the National Institute of Corrections.

In the recent growth of the Federal prison population we have had an unprecedented change, actually, in the population of the prisons. By all accounts, that will continue to accelerate. It will continue to grow. The drug problem certainly has exacerbated the problems that we are having.

To the credit of the Federal Bureau of Prisons and its staff, they have to date been able to meet the challenge, although we have had a chance to visit a number of prisons and it has been a difficult thing to try to make room for the many additional prisoners that are there.

It hasn't always been the case that the important role the Federal Bureau of Prisons plays in the criminal justice system has been fully appreciated. However, I think that the situation has changed, and this is in no small part due to the leadership of this subcommittee, which has consistently and persistently advocated that the entire criminal justice system be viewed in its entirety. When we make changes in one component of the system, we must assess what the impact of such changes will be for the entire system.

We are very fortunate to have as our new subcommittee chairman a member who is very knowledgeable in the area of criminal justice, and a member particularly concerned about our prison system. I think that in the years ahead we will see great progress with Bill Hughes as chairman of this subcommittee.

I think it is important that when people get out of prison they have a better chance of changing their lifestyle than they did before. I may be one of the few people remaining who still believes in rehabilitation as a worthwhile project, something we should all work for. It is a terrible indictment of our entire system of criminal justice that the average Federal prisoner has four felony convictions to his name.

My last point, Mr. Chairman, is that a larger and larger number of dropouts aren't making it in our society. We cannot afford that. I think someplace down the line we have to really take seriously the job of dealing with broken lives and trying to make something out of them. We have to catch them early in their careers before they become four time losers. I just think we have to do more to stem the rate of recidivism among Federal inmates.

Thank you, Mr. Chairman.

Mr. HUGHES. I thank the gentleman for those very kind remarks, and I look forward to working with my distinguished ranking member on this and any other important issues before the subcommittee.

We are joined this morning by the distinguished member from New York, the ranking member of the full committee, Mr. Fish.

Mr. FISH. Thank you, Mr. Chairman. This gives me an occasion to congratulate you on assuming the chairmanship of this important subcommittee and wish you well. I am pleased to be a member.

And I join with my colleagues in welcoming the Director, Mr. Quinlan. He has certainly always been available to members of this subcommittee and that is appreciated.

As some of my colleagues know, last year I was directly involved in an amendment that was added to the Commerce, Justice and State appropriations bill, Public Law 101-515, that provided for an independent market study on Federal Prison Industries, or UNICOR. I believe that prison industries can and should be an important part of the rehabilitation process. Federal prisoners deserve an opportunity to be occupied as well as to learn useful skills while they are incarcerated. Such a program also has obvious positive implications for the security of our prison system.

Like a number of members of this House, however, I have become concerned about the widening effects of UNICOR on a number of private sector industries. During 1989 UNICOR sales totaled approximately \$361 million, so we are not talking about a small operation, Mr. Chairman. We are talking about a diversified business of considerable scope. And one only need look at their annual report, the most recent of which is 1989, which shows that UNICOR has 72 plants nationwide with facilities in over 20 States. It is involved in metal and wood products, textiles, leather products, data graphics, electronics, plastics, and optics. But despite this diversification, UNICOR has steadily increased its percentage of Federal Government sales in a number of specific industries, including printing, paper products, textiles, and furniture.

For example, in 1989, the sale of FPI-made furniture to Federal departments and agencies increased 14 percent. This now represents 23 percent of the Federal office furniture market. In fact, in terms of annual sales, UNICOR is the 16th largest manufacturing concern in our country. Similarly, Federal Prison Industries now represents 38 percent of the market in draperies and is expanding its sales in apparel such as gloves and shirts, et cetera.

Now, I am pleased that an independent market study is underway. It is being conducted by Deloitte & Touche, a well-known accounting and market analysis firm. Their final report, which will make specific recommendations to Congress, should be available in

early August. I understand that a draft interim report will soon be available for review and comment by interested parties in both the public and private sectors. In fact, the interim report is scheduled for release on May 1, and briefing sessions have been scheduled by Deloitte & Touche for both Wednesday, May 8, and Monday, June 3. Those briefings will be in the Rayburn House Office Building.

I want to repeat that I am not opposed to the prison industries concept. I do believe, however, that Congress needs to do much more in the way of careful oversight of this program. And the policy tradeoff between keeping an increasingly large prison population busy while at the same time minimizing the impact of prison industries on the private sector and its employees is a difficult balancing act. Hopefully, the market study will provide us with some new ideas and approaches. We simply have to identify different and less damaging product lines for prison-made products.

We need to better understand what the actual economic impact of UNICOR has been on industries such as furniture, textiles, printing, electronics, and apparel. We also need to know whether or not the concept of placing limits on UNICOR's Federal market share in a particular product line is workable. Underlying all of this, Mr. Chairman, is the need to develop more effective lines of communication between UNICOR and the private sector so that UNICOR's entry into new product lines or new industries is not a unilateral decision. The affected companies deserve full and adequate notice and an opportunity to be heard in person before any final decisions are made that could have an adverse impact on their business or their employees.

The appeals process needs to be looked at and perhaps an on-the-record due process hearing under the Federal Administrative Procedure Act should be provided as well.

I appreciate the chairman's courtesy in recognizing me, and again, I look forward to Mr. Quinlan's testimony.

Mr. HUGHES. Thank you, Mr. Fish.

The gentleman from Massachusetts.

Mr. FRANK. Thank you, Mr. Chairman. I just wanted to express my agreement with the remarks just made by the ranking minority member of the full committee. I worked with him last year on this issue and I intend to do so again. I think he has outlined a very sensible and balanced approach, and I hope it is adopted. And I will do what is necessary to see that it is.

Mr. HUGHES. I thank the gentleman.

We are very pleased this morning to welcome two most distinguished witnesses to the hearing, both of whom are leaders in the field of corrections and who do the Federal Government great honor through their service.

Mr. Quinlan has served as the Director of the Federal Bureau of Prisons since 1987. He is the fifth Director that the Bureau has had in its some 60-year history. All five Directors, including Mr. Quinlan, have been career Bureau of Prisons officials who moved up through the ranks.

Mr. Wayne Huggins was appointed in 1990 to head the National Institute of Corrections. He developed an excellent reputation for his work as sheriff of Fairfax County, and we look forward to continuing our productive work together.



We thank both of you for appearing today. We have your statements which, without objection, will be made a part of the record in full. We hope you can summarize, but we will let you decide how you want to handle it.

Director, welcome.

**STATEMENT OF J. MICHAEL QUINLAN, DIRECTOR, FEDERAL BUREAU OF PRISONS, U.S. DEPARTMENT OF JUSTICE**

Mr. QUINLAN. Thank you very much, Mr. Chairman, and members of the subcommittee. It is a delight for me to have the opportunity to be here this morning. And I apologize for being a few minutes late, but I want to report that the security in the Rayburn House Office Building is at least as tight as the Federal penitentiary at Marion, IL.

Mr. HUGHES. Thank you. I am just happy I was here 1 minute before you.

[Laughter.]

Mr. QUINLAN. I would like to take just a few minutes to summarize a couple of the points that are contained in my testimony. I think that, as you said, it has been admitted in the record and others can see it at their leisure.

But the major points I would like to hit upon are that the population of the Bureau of Prisons is almost 62,000 now and it has grown dramatically since just 10 years ago when it was sitting at around 24,000 nationwide in our Federal prisons. We have an overcrowding rate of about 159 percent. That represents the crowding in our institutions over the design capacity of those facilities.

The good news, however, is that the Congress and the administration have been very supportive of the Bureau of Prisons and the Department of Justice's efforts to expand prison capacity in keeping with this growing prison population. In fact, we now have almost 37,000 additional prison beds that have been funded and will be built over the next 4 to 5 years. Our population, obviously, is not going to be declining or slowing actually in its growth for the foreseeable future. We project that our population by 1995 will be almost 99,000 Federal inmates, and that is without taking into account any additional Federal criminal statutes or any other new Federal initiatives.

The Bureau of Prisons has looked at all of the different ways to try to build these facilities as cost effectively as possible. We almost always look to build the facilities on donated land or Federal surplus property, and we use common designs so that we don't have to redesign each of our prisons. We are now getting into the business of using inmate labor to finish institutions. Our first initiative in that area will be in Allenwood, PA, where we will have the prisoners build about 50 percent of the prison. We are also looking at other kinds of shared alternatives to building, including use of the private sector, using military facilities, former military facilities or being on active military bases, using other kinds of facilities such as mental hospitals or college campuses that no longer need to be used. We have a seminary in Pennsylvania that we use, and military bases, obviously that have been closed, are being used. We now have an agreement with the Carville facility, a public health

facility that we will be using for medical cases. So the initiatives in this area have been multifaceted.

We have also expanded dramatically in the area of Federal detention responsibilities. Detention is the responsibility primarily of the U.S. Marshals Service. However, because of the tremendous growth in pretrial Federal cases, the Marshals Service has been unable to secure enough State and local contract beds. As a result, the Bureau of Prisons has assumed a larger and larger role in the area of Federal detention.

Our emphasis is not just on building cells, however, Mr. Chairman. We are looking, obviously, at as many ways as we can to expand intermediate punishments. We believe strongly in the concept of community corrections, and feel that for appropriate cases where public safety can be maintained that people should be assigned to community-based correctional facilities. I think one of the major public perception issues that we face is a perception that putting a person in a community-based facility is not punishment. One of the things that I think we continue to strive hard to do is convince the public that intermediate sanctions can be real punishment.

We have developed a number of new initiatives in the area of work. I know, as Mr. Fish and Mr. Frank have indicated, that Federal Prison Industries is an issue that is of great concern. It is of great concern to us. We do not want to be a threat to the private sector or to organized labor, and we are working as hard as we can to find other alternatives to keep inmates busy. I would like to mention just a few that we have developed in the last year.

One is an urban work camp in Philadelphia where we have prisoners assigned to a community corrections center working at a military installation in Philadelphia. We have a new arrangement with the U.S. Forest Service, working in a U.S. forest in Bradford, PA. We have a new operation where we use prisoners to maintain the national park at Alcatraz. We have an operation where inmates are working in a laundry operation in Fort Bliss, TX, for a military base.

There are many different initiatives, but work is an important one. We have also put a lot of emphasis, as Congressman Fish and Congressman Frank have indicated, on the market study. We believe that there can be new directions forged for Federal Prison Industries that will allow the Bureau of Prisons to maintain the level of inmate employment, which is about 25 percent of our inmates, and yet not be as much of a threat to certain aspects of the private sector who would like to see more of the Federal business going to the private sector agencies.

The Bureau of Prisons has been working closely with the U.S. Probation Service and with the Parole Commission on other intermediate punishments I neglected to mention. I wanted to mention also home confinement and electronic monitoring as another initiative.

In closing, I just want to mention a couple of program initiatives that we are really very excited about. One is drug treatment. We have about 54 percent of our population now who are serving terms for drug offenses. We estimate that 47 percent of our 62,000 inmates have moderate to serious substance abuse histories. They do

not, for the most part, have any access to drugs in prison because our drug testing, which included about 71,000 specimens tested last year, only came up with a 1.9-percent positive rate. But, once you are addicted to something, as you undoubtedly realize, it is very hard, even if a long passage of time intercedes, to lose that addiction. We are working hard to develop innovative drug treatment strategies that will, hopefully, make a difference for the 47 percent of our population who have substance abuse problems.

Another major initiative in the Bureau is in the area of inmate literacy. We have felt strongly about the importance of inmates learning to read and write while in prison. I agree fully with Congressman Moorhead's statement about the issue of rehabilitation. I believe, too, Congressman Moorhead, that people can be rehabilitated. The illiteracy of prisoners is something that we have a unique opportunity to try to remedy, and I am very proud of the fact that we have now enhanced the Bureau's literacy standard from the 8th grade level up to a 12th grade GED, and that just was implemented just this year.

I welcome any questions that you might have regarding our programs.

Mr. HUGHES. Thank you, Mr. Director.

[The prepared statement of Mr. Quinlan follows:]

PREPARED STATEMENT OF J. MICHAEL QUINLAN, DIRECTOR, FEDERAL BUREAU OF  
PRISONS, U.S. DEPARTMENT OF JUSTICE

Mr. Chairman and members of the Subcommittee, I appreciate the opportunity to appear before you and discuss issues related to the Federal Bureau of Prisons (Bureau).

The Bureau's population is 61,536, representing an increase of more than 37,000 inmates since the beginning of 1980. With a design capacity of 38,584 beds in 67 locations, this equates to an overcrowding rate of 159 percent of capacity. Based on updated projections, the Bureau now expects that the Federal inmate population will continue to increase, growing from the present level to about 98,800 by 1995. The Bureau's population is approximately 27 percent non-U.S. citizens, a 600 percent increase since 1980.

As of January 1, 1991, the Bureau had 36,939 beds funded, under design or construction. The FY 1992 budget alone includes a request for 3,600 beds, at a total cost of \$314,850,000. Our goal is to reduce overcrowding to a more acceptable 130 percent of capacity by 1995.

The Bureau has taken steps to ensure that new prison construction is as cost-effective as possible; these include the use of Federal surplus property, use of land donated to the Government at no cost, and the use of already proven prison designs and new construction techniques, such as modular and precast concrete technologies. Current construction efforts in Allenwood, Pennsylvania, are piloting the use of inmate labor in construction. Another cost-saving strategy is the construction at one site of correctional complexes, which have as many as four correctional facilities of different security levels (e.g., a maximum security U.S. Penitentiary, medium and low security Federal Correctional Institutions, and a minimum security Federal Prison Camp), with anticipated savings through shared services and staff. The basic design capacity of new institutions also is being increased, from approximately 500



to approximately 750, by modestly increasing the cell size and initially designing one-half of the prison's cells for two inmates each.

Design efficiency is also important because the ongoing operational costs generated by a prison mean that over the typical life cycle of an institution, construction costs are only 5-7 percent of the total expense. From 15-20 times the construction costs will have to be budgeted over the life of each prison now being built, for its actual staffing and operation. These costs make it vitally important to focus on optimizing designs for both security and staff efficiency.

New construction is not the only answer to the prison bedspace problem; a multifaceted approach is vital in meeting the Nation's correctional needs in coming years. This approach includes the following:

First, the Bureau is maximizing the use of existing facilities by constructing additional housing units. This approach, though cost-effective, has limits, because at a certain point the core facilities that serve the entire institution, such as food service and water and sewer systems, cannot sustain further expansion.

Second, the use of surplus and active military bases is a useful, cost-effective strategy for housing some low security inmates, and the Bureau is actively interested in any suitable land or facilities that may be available through the Base Closures Act. Military base locations such as Eglin AFB, FL; Maxwell AFB, AL; and Ft. Bliss, TX are but a few of those already in use or being actively pursued for minimum custody facilities. These locations are not generally suitable for higher security operations without costly renovation and construction.

Third, the Bureau has undertaken a major initiative, with the help of U.S. Attorneys, U.S. Marshals, the Federal judiciary, and others, to identify non-military surplus sites that would be

suitable for low or medium security conversion. We have had considerable success in recent years in acquiring these sites for conversion. The Federal Correctional Institution at Loretto, PA, the Federal Medical Centers at Rochester, MN, and Carville, LA, and the Federal Prison Camps at Duluth, MN, and Yankton, SD are examples - a former seminary, mental hospital, Hansen's disease research center, military base, and college campus, respectively.

Fourth, private corrections is an option often discussed as a remedy for public prison crowding. While this is not seen as a major population relief strategy of the Bureau, we have entered into intergovernmental agreements to house some low security inmates (primarily short-term aliens) in non-Federal facilities managed, via a separate contract, by private sector correctional organizations. The Bureau also contracts with the private sector for consultant medical services, education programs in some institutions, the operation of halfway houses for prerelease inmates, and the housing of Federal juvenile offenders.

The Federal detainee population has exploded over the past decade, from 4,000 in 1981 to more than 14,000 today; the Bureau holds about 4,000 of these cases in its own facilities. This unprecedented growth has stimulated a close-working joint planning effort among the Bureau, the U.S. Marshals Service (USMS), and the Immigration and Naturalization Service (INS), to prepare a comprehensive Department of Justice detention plan under the direction of the Deputy Attorney General. This plan, which has been approved by the Attorney General, provides for increasing capacity through a costeffective, sequential process, using additional State and local beds whenever available; the USMS Cooperative Agreement Program; private sector contract space; and expansion of Bureau detention capacity.

With this tremendous expansion in physical plant will also come the need to recruit, train, and manage a far larger workforce. Moreover, this will have to be done at a time when the demographics of the country actually reflect a shrinking pool from which to recruit.

The Bureau currently employs more than 19,800 staff. To meet the demands of the present expansion program, as many as 43,000 employees will eventually be needed. In addition, the next decade will see the retirement of a high percentage of the Bureau's present mid- and upper-level managers. This actually means that up to 45,000 new line employees and 1,200 managers may have to be trained in the next 6 years, greatly straining existing recruitment and training resources. To meet this challenge, the Bureau has developed a new training infrastructure, which will enhance development opportunities for employees.

Implementing a balanced and cost-effective correctional management program necessitates use of a range of options, from maximum security institutions to programs that supervise offenders in the community. Community Correction programs and intermediate sanctions for non-violent, non-dangerous inmates are an important part of the Bureau's strategy for providing meaningful sanctions that also optimally prepare offenders for a productive return to society.

Community Corrections Centers (CCC's) serve inmates who are being released from a BOP institution (typically within the last 180 days of their sentence) and some probation supervision cases who need added community support. The CCC's provide suitable residences, structured programs, job placement, drug testing and counseling, and alcohol monitoring - all while monitoring the offender activities in the community. Inmates are granted a moderate amount of personal freedom, and may stay in the community after working hours, for recreation, family, and other casual activities.

CCC's also offer a second, more restrictive, program for inmates who need additional supervision. In this program, the inmate is allowed to leave the Center only for work and other approved activities, such as drug/alcohol counseling. This component is normally

utilized for those serving short sentences (1 year or less) who do not present a threat to the community, but is also a potential (direct commitment) sentencing option of the courts.

Assignments to Federal minimum security prison camps (FPC) also allow non dangerous, non-violent inmates to perform work assignments involving labor in a community setting, in support of other Federal agencies, and often under supervision of staff from those agencies who function as role models of mainstream social values. Examples include the pilot Urban Work Camp in Philadelphia, PA, where offenders live at a CCC and work on projects in support of the U.S. Army; projects in support of the U.S. Forest Service at the FPC McKean, PA; the UNICOR laundry operation at Ft. Bliss, TX, involving inmates from FPC, El Paso, TX, recently praised as one of the most efficient laundry operations serving the U.S. Army; and support to the National Park Service by offenders from FPC, Pleasanton, CA, in the renovation of the former U. S. Penitentiary, Alcatraz, in San Francisco, CA.

The Bureau also manages a successful Inmate Financial Responsibility Program, which collects fines and other court-ordered financial obligations from inmates' wages - often to be returned directly to victims. This program is a model for the use of incentives to motivate offenders to fulfill court-ordered financial obligations.

Home confinement (with or without the use of electronic monitoring) has been piloted by the Bureau to provide closer supervision for lower security offenders nearing release. These programs limit the offender's personal freedom without requiring the construction of additional, costly halfway houses for detention beds. They provide intensive supervision through centralized electronic monitoring technology in the form of an ankle "bracelet," which signals a computer-driven receiving or recording device. Home confinement programs for suitable low-risk offenders may eventually supplant a significant portion of the Bureau's current Community Corrections contract operations, at considerable cost savings, and



potentially provide, through a pending amendment to the Sentencing Guidelines, an alternative for direct commitment to the Bureau of Prisons.

Some state correctional systems use programs called "boot camps", a relatively recent innovation in corrections based on the military induction camp experience. The Bureau operates a similar facility, the Intensive Confinement Program adjacent to the U.S. Penitentiary in Lewisburg, Pennsylvania, for those Federal offenders who may benefit from it. This program involves a very intensive, highly structured program of early wakeup, calisthenics, a hard day's labor, basic services, and few amenities, all in a closely supervised, no-frills setting. Drug treatment, education, and other necessary programming are provided, as is an extended period of time in a community corrections setting, to assist participants in consolidating and sustaining the gains they made in the Center itself.

Inmate employment, particularly industrial jobs, is the key factor in combating the adverse impact of overcrowding in a prison setting. Federal Prison Industries (trade name UNICOR) is a wholly owned Government corporation whose mission is to employ inmates and to provide them with training opportunities. UNICOR presently employs about 25 percent of the available working population.

To avoid adverse impact on any single portion of the private manufacturing sector, UNICOR provides an intentionally diversified range of products and services - from executive and systems furniture to electronics, textiles, and graphics/signage. Services performed by UNICOR's inmates include data entry, printing, and furniture refinishing. These products and services are available to all Federal agencies; UNICOR may only sell to other Federal agencies. In November, 1990, an amendment to the State, Justice, and Commerce Appropriations Bill (P.L. 101-515) was enacted. This Bill required FPI to contract with an independent market research organization, not affiliated with FPI, to conduct a market study

design to accomplish two tasks: identification of new product markets into which FPI could expand and yet have minimal impact on the private sector; and an assessment of the impact that FPI has had on private industry and an analysis of whether FPI's statutes should be changed. This study is due to Congress by August 5, 1991.

The Bureau has long recognized the importance of educational programming as a management tool for confined offenders. With minor exceptions, all Federal prisoners who test below the 12th grade level on the Adult Basic Level Examination (ABLE) must enroll for 120 days in a basic education program, with the goal of obtaining a GED. Inmates may opt to withdraw from the program after that period, but all promotions in Federal Prison Industries and institution assignments beyond the entry-level grade are contingent on successful completion of a GED program. The GED became a Bureau-wide standard last year.

The Bureau provides a wide range of vocational training programs to confined male and female offenders. In addition to traditional job training activity, UNICOR provides extensive preindustrial training to prepare inmates for employment in the Corporation's industries.

AIDS is a potentially serious problem in the prison environment, but one which is proving to be administratively more manageable than originally thought. Less than 2.6 percent of incoming inmates have tested HIV-positive. Emphasis is placed on safe procedures for contact with body fluids, confidentiality, counseling, and education. Inmates who test positive for the presence of HIV antibodies receive state-of-the-art medical care, including AZT. Most HIV-positive cases are mainstreamed in the general population, except when acute care is needed. Inmates who display predatory or promiscuous behaviors are placed in administrative detention, because these behaviors violate institutional rules. The Bureau's approach is consistent with all contemporary advisories from the Centers for Disease Control in Atlanta,

GA, and was used as a model for corrections in the report of the President's Commission on the HIV Epidemic.

Overall, over 53 percent of all Federal inmates are drug offenders, and this percentage is expected to increase to 69 percent by 1995. Approximately 47 percent of new admissions are rated as having moderate to severe drug use histories. For that reason, the Bureau provides high-quality drug treatment services to committed offenders, operating typical institutional counseling and group activities to assist offenders with substance abuse problems. In addition, the Bureau operates three residential drug treatment units with strong research components. Five additional residential treatment programs have been developed that require several hundred hours of treatment and an extensive aftercare program. These residential programs will entail comprehensive assessment, group and individual therapy based on the individual's needs, life skills development, aftercare planning involving relapse-prevention components, and strong evaluation components. The Bureau has signed a \$2.94 million interagency agreement with the National Institute on Drug Abuse, which is designed to evaluate the effectiveness of its drug abuse programs over the next several years.

The Bureau also operates programs to detect, deter, and provide treatment for illicit drug use, because of the impact such use may have on inmate and staff safety, institution security, and the community. Accordingly, a major element of the proactive effort to control drug use is the Bureau's inmate urinalysis program. Under current procedures, at least 50 percent of inmates involved with community activities undergo urine testing. All inmates suspected of using drugs are tested monthly, and at least 5 percent of each institution's total inmate population is tested randomly each month. The urinalysis includes tests for morphine, methadone, codeine, other opiates, barbiturates, amphetamines, cocaine and cocaine metabolite, phencyclidine, and THC (marijuana).

Despite the current surge in the offender population, the Bureau is benefitting greatly from the support of the Congress, the Department of Justice, and the Office of Management and Budget, in providing the resources needed to fulfil its mission. Through its facility expansion program, and by providing this broad range of programs and services, the Bureau ensures that its important public safety role is filled in a way that also offers motivated offenders the opportunity to participate in cost-effective, high quality self-improvement programs.

This concludes my formal statement, Mr. Chairman. I would be pleased to answer any questions you or your colleagues may have.

Mr. HUGHES. If it is OK, I think we will just take Mr. Huggins' testimony and then we will go to questions.

Welcome.

**STATEMENT OF M. WAYNE HUGGINS, DIRECTOR, NATIONAL INSTITUTE OF CORRECTIONS, U.S. DEPARTMENT OF JUSTICE**

Mr. HUGGINS. Thank you, Mr. Chairman. I appreciate the opportunity, as does Director Quinlan, to appear before you today. I will make my statement and abbreviate its contents.

The National Institute of Corrections in a way has its 20th anniversary this year, for we came about as a direct result of the Attica Prison riots in New York State. To provide our technical assistance and training services, NIC is structured into four separate divisions.

Our Jails Division coordinates services to upgrade the approximately 3,300 local and State-operated jail systems throughout the country that are today holding approximately 450,000 inmates.

Our Prisons Division, as the title might indicate, promotes systematic change and improvements within the entire State prison systems by coordinating services to the 50 State departments of corrections as well as the department of corrections in the District of Columbia. There are some 1,200 prisons throughout that system, and today those prisons are holding approximately 780,000 inmates.

A third division, the Community Corrections Division, coordinates all services to the Nation's more than 2,500 parole, probation and community corrections agencies scattered throughout the country, and today these 2,500 agencies are responsible for the control and supervision of more than 3 million offenders.

Our fourth division, the National Academy of Corrections, coordinates all training activities for the National Institute of Corrections. Last year, we trained approximately 3,100 correctional administrators, correctional practitioners, and other State and local policymakers.

Finally, not an actual operational division, but a very important function is our Information Center that disseminates information to all correctional practitioners and policymakers throughout the United States. Last year, the Information Center, which is located in Boulder, CO, responded within 24 hours to over 16,000 requests for information on every conceivable subject related to the operations of correctional agencies.

During fiscal year 1990 some of the more major accomplishments of NIC included responding to 663 separate requests for direct technical assistance from State and local agencies in all 50 States, the District of Columbia, and Puerto Rico. In addition, we awarded 42 grants to State and local agencies and organizations and individuals in 19 States and the District of Columbia to undertake projects to advance correctional operations or to conduct projects of national scope.

Finally, last year we published five new topical reports on subjects of high interest to the corrections field. Two of the most popular and the most timely were a manual promoting probation and

parole officer safety as well as programs treating incarcerated sex offenders.

In the upcoming year, five areas that we will be highlighting, and it will be a major thrust of our areas, are our jail planning, design and construction assistance programs, commonly referred to by the field as PONI and HONI—acronyms for the planning of new institutions and how to open new institutions. Approximately 60 local jurisdictions will participate in that program this year.

Our large jail network, which works with 60 jurisdictions throughout the country that have inmate populations of greater than 1,000, will continue to function. A major area of interest this year, and focus, will be human resource management. As correctional agencies and programs around the country continue to grow, one of the major issues facing correctional administrators are human resource issues: Recruitment, retention, promotion of competent and professional staffs.

One of the more exciting projects that we are proud of is our interagency agreement with NASA—the National Aeronautics and Space Administration—where we are working with them to identify space age technologies that might have application to correctional operations. Three of the technologies that have been identified so far are advanced identification methods for contraband and drugs, computer literacy programs aimed at increasing inmate literacy, and perimeter security using satellite telecommunications.

And finally, the last project, which might be considered our major project, is our joint project of intermediate sanctions with the State Justice Institute where we are providing direct assistance and training to 24 jurisdictions to help them create and develop a system of intermediate sanctions to address the ever-growing problem of prison and jail overcrowding.

In closing, I would add finally that the National Institute of Corrections, as you pointed out, Mr. Chairman, is a small agency with some 50 professionals, all of whom come to us from State and local correctional agencies and all of whom served in major management positions in their home agencies. We feel our hands-on approach with problems and challenges facing correctional administrators enables us to respond to the very real needs of the field and to do so with a true sense of purpose and accomplishment.

Thank you again for allowing me the opportunity to be here today. I would be happy to try and answer any questions that you might have.

Mr. HUGHES. Thank you, Mr. Huggins.

[The prepared statement of Mr. Huggins follows:]



PREPARED STATEMENT OF M. WAYNE HUGGINS, DIRECTOR, NATIONAL INSTITUTE OF  
CORRECTIONS, U.S. DEPARTMENT OF JUSTICE

Mr. Chairman and members of the Subcommittee, I would like to thank you for inviting me to testify before you today, to provide an overview of the National Institute of Corrections (NIC). I will briefly describe the history, purpose, and structure of the NIC, and then discuss some of our accomplishments and current programs.

NIC's history is rooted in the September 1971 riot at Attica State Prison in New York, which left 32 inmates and 11 correctional staff dead. Public reaction, and concern about the adequacy of state and local correctional personnel and programs throughout the country led Attorney General John Mitchell to convene a national conference on corrections in Williamsburg, Virginia, in December of that year.

In a keynote address at the Conference, then Chief Justice Warren Burger recommended the establishment of a national training academy for corrections. He envisioned that such an "academy" would encourage the development of correctional knowledge, coordinate research, provide professional training, formulate policy recommendations, and provide a forum for discussion and evaluation of advanced ideas in corrections.

The National Institute of Corrections has been in operation since 1977. Its enabling legislation, passed in 1974 (Public Law 93-415, 18 U.S.C. 4351), mandates that it provide training, technical assistance, clearinghouse services, research, and policy formulation to improve federal, state, and local corrections.

The NIC is both a direct service and a funding organization, administered by a Director appointed by the Attorney General. Policy and programs are determined by a 16-person, non-partisan Advisory Board whose members are appointed by the Attorney General for three-year terms.

The National Institute of Corrections provides direct technical assistance to the field, helps develop policy and programs, conducts training, and oversees the work of consultants and grantees. NIC provides practical assistance to state and local correctional agencies through activities that respond to the very real problems of day-to-day operations, while also developing new approaches for the future.

NIC's structure includes four divisions--Jails, Prisons, Community Corrections, and the National Academy--which coordinate the NIC's work, and a national information center. The Prisons and Community Corrections Divisions are located in Washington, DC, while the Jails Division, the Academy, and the information center are located in Boulder, Colorado.

- o The Jails Division coordinates services to upgrade approximately 3,316 local and state-operated jail systems throughout the country.

- o The Prisons Division promotes systemic change within entire state prison systems by coordinating services to the 50 state departments of corrections and their almost 1,200 prisons, as well as the corrections departments of the District of Columbia and the U.S. territories and commonwealths.
- o The Community Corrections Division coordinates services for the nation's more than 2,500 probation and parole agencies, 1,200 residential facilities, and numerous intermediate punishments and other community-based programs. These agencies collectively supervise more than 3 million offenders.
- o The National Academy of Corrections coordinates all Institute training activities and functions as a national training center for state and local correctional administrators. During fiscal year 1990, we conducted more than 50 seminars covering over 33 different critical topics for state and local correctional administrators and practitioners.
- o Lastly, the NIC Information Center, operated by a private contractor, serves as the repository and national clearinghouse for information and materials developed, collected, and disseminated by NIC.

The NIC's budget appropriation was \$10,112,000 and 49 positions for fiscal year 1990, and \$10,007,000 and 53 positions for fiscal year

1991. Our budget request for fiscal year 1992 is \$10,221,000 and 53 positions. Along with this request, we anticipate receiving an additional \$3 million in reimbursements from the Office of Justice Programs.

During fiscal year 1990, some major accomplishments of NIC included:

- o Responding to 663 separate requests for direct technical assistance from state and local agencies in all 50 states, the District of Columbia, and Puerto Rico.
- o Awarding 42 grants to state and local agencies, organizations, and individuals in 19 states and the District of Columbia to undertake projects to advance correctional operations or to conduct projects of national scope.
- o Training more than 1,500 state and local correctional practitioners at the NIC Academy, and an additional 1,500 practitioners through various offsite approaches (e.g., audioconferences, workshops at the regional level). NIC and the Bureau of Prisons (BOP) initiated management seminars for Bureau staff where more than 200 BOP managers received training.
- o Responding to more than 15,000 requests for information from

correctional practitioners, state and local policymakers, and others through the NIC Information Center.

- o Publishing five new topical reports on subjects of high interest to the corrections field, including probation and parole officer safety and treating incarcerated sex offenders.

In addition to these accomplishments, I would like to mention several major, continuing initiatives that NIC is involved in that appear to be making a difference for state and local corrections.

#### **Jail Planning, Design, and Construction Assistance**

Approximately 60 local jurisdictions involved in building new local jail facilities are assisted each year through an NIC program that provides ongoing assistance from the planning stage, through the design and construction phases, up to the transition to the new facility. A recent evaluation of this program showed that jail construction and operation cost savings in some single jurisdictions far exceeded the total cost of the federal effort over the past decade.

#### **Large Jail Network**

Nearly 60 jurisdictions throughout the country have average daily jail populations in excess of 1,000 inmates. These metropolitan and urban counties hold nearly half of those in jail in the U.S.

and also have the most crowded jails, operating at more than 125 percent of their rated capacity on average. To assist them, NIC established a "Large Jail Network" and actively facilitates information and technology transfer through technical assistance and a quarterly bulletin.

#### **Human Resource Management**

Human resource issues--including recruitment, retention, and development of managers--have become critically important to correctional administrators. To address these issues, the NIC Prisons Division last year provided a training seminar on recruitment strategies; funded a demonstration project on a model accelerated management program, and a study of retention issues for correctional personnel; and, solicited proposals to conduct a study on providing child care for correctional employees.

#### **NASA Technology in Corrections**

NIC and the National Aeronautics and Space Administration are involved in a joint effort to adapt aerospace technology for application in corrections. Begun in May 1989, the first phase of the project entailed identifying and prioritizing prison problems that might be addressed through aerospace technology. A series of meetings among correctional officials and top NASA engineers and scientists led to the identification of contraband and drug use detection, computer literacy programs, and perimeter security as



purposes for which specific NASA technologies would be adapted.

#### **Intermediate Sanctions**

The term "intermediate sanctions" refers to a range of penalties and programs for offenders that falls between traditional probation and imprisonment. The concept recognizes that the courts need additional, more flexible options in sentencing non-violent offenders.

In 1990, NIC continued a cooperative 2-year project with the State Justice Institute to promote expanded use of intermediate sanctions. Through the project, high-level officials in 12 large cities and counties were provided technical assistance to determine and implement strategies for improving their use of intermediate sanctions. An additional 12 jurisdictions will be selected to participate in the project this year.

In summary, NIC provides practical services that are based on the most critical needs and problems facing federal, state, and local corrections agencies. The needs are determined through public hearings and ongoing interaction and communication with these constituencies. Given the fact that our training programs are oversubscribed by as much as 500%, there is a tremendous need for our services.

In closing, I would add that the National Institute of Corrections is staffed by a very small group of professionals, the majority of whom came to federal government service from management positions in state and local corrections agencies. Their hands-on familiarity with the problems and challenges of corrections enables us to respond to the very real needs of the field, and to do so with a true sense of purpose and accomplishment.

I will be happy to respond to any questions members of the Subcommittee may have.

Mr. HUGHES. The crime bill enacted by Congress last year instructs the Bureau of Prisons to make drug treatment available to the extent practicable to inmates with drug abuse problems. I understand, and I think you quoted a figure today of 47 percent of the inmates today have drug problems. Some 53 percent are there on drug-related crimes. So you have got a history of use in some 47 percent.

Last year, 3,800 inmates, as I understand, were receiving drug treatment or education. How long will it be before we can afford drug treatment for inmates on demand?

Mr. QUINLAN. In the 1992 budget request, Mr. Chairman, the Bureau of Prisons is asking for an additional \$12 million and 100 positions to be able to expand our drug treatment programs to 29 of our 67 institutions, and those institutions are the ones where the majority of the substance abusers would be living.

One of the things that we have focused on in our drug treatment initiative is doing extensive research, and as you undoubtedly remember, the Federal Bureau of Prisons was very active in the drug treatment area back in the early 1970's. We fell into a period of a more modified approach to drug treatment in the early 1980's, and now we have come back into a very intensive drug treatment initiative in the 1990's.

The focus, however, after learning what has gone before, is toward the offenders who are closest to release. What we have learned is if you don't provide the treatment to offenders who are about to go into the community and then tie it in with an intensive community aftercare transition program, teaching major coping skills in the environment which they are most susceptible, the drug treatment is not likely to take and hold. So our major focus is on these last 18 to 24 months of confinement for the 47 percent of our drug offenders or substance abuse offenders.

I would say that by the end of, or by the middle of the 1992 fiscal year, we will be providing drug treatment to virtually all prisoners who are within that 18- to 24-month period of release, plus probably a lot of other prisoners who really feel a strong motivation to get into the program early and stay with it longer than the program is actually designed for, which is about an 18- to 24-month period.

Mr. HUGHES. I think that prioritizing is correct. I support that. Obviously, it would be ideal if we could begin that treatment from the time they arrive in the system. I understand we don't have the resources to do that. My question is when are we going to be able to do that? When are we going to be able to provide that type of treatment on demand? Because, obviously, we need to reach the people that are going to be released in the near term. They may need additional followup. If we could reach them earlier as they come into the system, then obviously the task is made a little easier because we have more time to work with them while they are in the system.

When do you anticipate that? That is my question.

Mr. QUINLAN. I would anticipate, Mr. Chairman, that treatment by demand will almost surely be in place in the Bureau of Prisons in fiscal year 1992 for this reason. Although I describe to you sort of this timeline of when treatment would be most likely and most

effective, what we are experiencing right now is that many offenders in that time period are not interested in drug treatment. They have gotten close to release and they are now focusing on their release. And so we are putting a lot of offenders into these programs from almost the first month or two after their assignment into the Bureau of Prisons.

My expectation would be—and we will have more data for you, I would say, within the next 6 months on this—but I would expect before the end of fiscal 1992 we will virtually be providing drug treatment on demand.

Mr. HUGHES. Do we know when they come into the system from our screening, our present screening, just what classification we are dealing with, just how serious an abuse problem they have and so forth?

Mr. QUINLAN. Yes, we do.

Mr. HUGHES. So we understand almost from the time they enter the system just what the challenge is?

Mr. QUINLAN. What we do, Mr. Chairman, is have the presentence investigation completed by the Probation Division which many times will indicate to us the prior record of substance abuse and things of that nature. Also, during the initiation and orientation processing at the Bureau of Prisons facility, there is going to be an interview with a psychologist or a mental health treatment professional, so we find out within the first 30 days how serious a problem this person has.

Mr. HUGHES. I see. I have a number of questions, and I am going to try to be brief, and I would ask you to try to be brief so I can get on to some other things.

Mr. QUINLAN. Absolutely.

Mr. HUGHES. Are the 54 days of "good time" that is presently available to nonparole inmates sufficient to maintain safety and security and order in the prisons?

Mr. QUINLAN. I do not believe so. The Department of Justice is going to be coming to the Congress with an initiative this year for an expansion of "good time" for offenders who have sentences in excess of 5 years. It is our belief that there is, because of the increase in mandatory minimum sentences with very, very long times to serve, very little hope for these folks; thus, in order to maintain discipline within the institution, we have to have additional tools.

Mr. HUGHES. Well, that is my own perception. When do you think we will have some recommendations?

Mr. QUINLAN. I would say within 90 days.

Mr. HUGHES. Thank you. What is the status of the Prison Industries market study that Mr. Fish and Mr. Frank alluded to? Is that on target?

Mr. QUINLAN. It is moving on target. The preliminary report will be to the Congress in early May and the full report on August 5.

Mr. HUGHES. OK. We are always going to have friction. There is nothing that Prison Industries can do to provide work, training and productive work that is not going to generate some opposition. But, I, too, believe that we can reduce that. There are a lot of sectors of our economy that are not competitive in the global economy, and it seems to me that we can do better—

Mr. QUINLAN. I agree with that.

Mr. HUGHES [continuing]. In targeting useful endeavors that will not only provide productive uses in prisons but skills that can be utilized when they leave prison, which is just as important.

Mr. QUINLAN. I agree with that.

Mr. HUGHES. So I am looking forward to that.

Medical care. I watched "60 Minutes," and while I could tell you were tense and a little unhappy, let me ask you, do you have a couple of comments that you might want to make as to how we are going to deal with some of the problems? I know we have had some problems.

Mr. QUINLAN. We are not, Mr. Chairman, immune from problems in any area, certainly not in the medical area. We have not discovered the elixir that treats all people with medical problems 100 percent of the time exactly the right way. I would suggest, however, that no one else has either.

I think the criticisms that "60 Minutes" portrayed were unfair in the sense that they only portrayed—

Mr. HUGHES. Well, it wasn't balanced.

Mr. QUINLAN. There was no balance.

Mr. HUGHES. Well, if there was balance in it, it probably wouldn't have made "60 Minutes," would it?

Mr. QUINLAN. That is true.

Mr. HUGHES. The Veterans Affairs Department just acknowledged some inadequacies in their system. What is our policy? Do we acknowledge when we—

Mr. QUINLAN. Oh, absolutely. I would be very candid with you and with members of the committee about problems. What we do if we have a problem is I appoint a board of inquiry to go into an institution and look carefully into all of the issues surrounding a particular medical or other type of case where things didn't go exactly as they were expected to go. Then we get a full report and we take disciplinary action, and, if necessary, change policy or whatever it takes to make sure that the problem doesn't reoccur.

Mr. HUGHES. I am interested, as you know, in intermediate sanctions. I just don't think we have done a very good job, particularly in some of the States' systems, in attempting to develop a myriad of alternatives.

In the area of boot camps, which is one of the areas I am interested in, there is a new program at Lewisburg. What is your preliminary assessment of its success?

Mr. QUINLAN. It is very, very positive. I think the program is going along much better than I had anticipated. I am excited about it. We only have 100 people involved in the program now, but the results are so exciting, Mr. Chairman, that last week we have decided to expand to a female boot camp in a facility we operate in Bryant, TX. So, we are very excited about the concept.

Mr. HUGHES. Thank you. Mr. Huggins, the National Institute of Corrections' proposed budget anticipates a \$3 million transfer from the Office of Justice Programs. Why doesn't the Department ask for the \$3 million to go directly to the National Institute of Corrections?

Mr. HUGGINS. The Department was very supportive of a budget increase I asked for, Mr. Chairman.

Mr. HUGHES. I know that. And I respect what they do and all that, but why can't we just ask for the money directly? Why do we have to have transfers?

Mr. HUGGINS. I am not sure I know the answer.

Mr. HUGHES. I don't either.

What lessons do the States offer for the Federal system from your experience?

Mr. HUGGINS. I think the jails are, perhaps, where we all can learn some lessons. Perhaps that is my prejudice as a former jailer showing through. I think running a local jail is as difficult assignment in corrections as there is. As Director Quinlan pointed out, a very, very small percentage, almost nonexistent percentage, of the drug offenders coming into the Bureau of Prisons have a continuing drug habit once they come into the Bureau. On the other hand, local jailers are dealing with intoxication, drug addiction, withdrawals and all of those things day in and day out.

And, perhaps, the ways that some of our local jail systems, our large sophisticated jail systems, are dealing with some of those types of issues are lessons to be learned. The issue you just asked Director Quinlan about, boot camps, it is another area. There are some exciting shock incarceration programs going on around the country in some of our State systems, and I think those are areas that we can learn—

Mr. HUGHES. You are looking at those pretty closely, are you?

Mr. HUGGINS. I am sorry, sir?

Mr. HUGHES. Are you looking at those pretty closely?

Mr. HUGGINS. As an agency and individually, both; yes, sir. In my travels around the country, anytime I have an opportunity to visit I do. I guess the most striking thing is, I have seen several boot camps, but I have not seen two exactly the same. Different States run them differently. There are characteristics in common, but, in terms of overall operation, they are different.

Mr. HUGHES. Well, that is good because, I mean, that kind of experimentation perhaps will be instructive to us.

I have some additional questions but my time is up.

The gentleman from California.

Mr. MOORHEAD. Well, thank you, Mr. Chairman.

Mr. Quinlan, you stated in your report that 53 percent of all the Federal inmates are drug offenders and projected that it will reach 69 percent by 1995. What percent of the inmates actually use narcotics while they are in prison?

Mr. QUINLAN. A very, very small percentage, Mr. Moorhead. The Bureau does three types of drug testing within our prison population. We do a 5-percent random sample of all of our prisoners every month. We do a 50-percent sampling of all prisoners returning from community activities. And, we do a 100-percent sample of prisoners who are placed in our suspect category. These are prisoners who have attempted to introduce contraband or drugs into our institutions or have otherwise been tipped off to us as possible users of drugs.

As I indicated last year, out of all of the tests done, only—just shy of 2 percent were positive, and the majority of those positive tests were for marijuana, which as you know is not a different type of narcotic.



The Bureau takes a very strong stand on drug use in prisons. We take strong disciplinary action, and we will move a prisoner to a higher security prison to make sure that they have no access to drugs in prison.

Mr. MOORHEAD. You would normally think that the longer you could keep them off of drugs, the less likely that they would go back to them. Is it possible to make persons virtually drug free?

Mr. QUINLAN. It is not necessarily true, Congressman, that the longer you keep people off of a substance, the more likely they will lose their addiction to it. Once returned to the environment in which they have fallen prey to addiction of a substance, they tend to fall back into the same use patterns.

I would say that, yes, we can always strive to try harder to make institutions more free of drugs. However, so long as we are going to have operations where prisoners have free contact with their family or friends in the visiting room programs where inmates will occasionally go out into the community to interact as they get closer to release, and, unfortunately, that very small percentage of our staff who will violate our standards and bring things in, we are going to have a small amount of drugs in prison.

I would mention, however, that I don't think that staff are responsible for very much of the drug introduction in prisons. When you look at the Marion Penitentiary, which does not have contact visiting, the visiting at Marion is through a glass wall, the percentage of positive drug tests is zero. So, it suggests strongly that the way drugs are being introduced is through the visiting room. People swallow balloons. They kiss and they pass different drug substances through balloons and things of that nature. People carry things in body cavities and then slip them to the inmate in the visiting room in a very professional, surreptitious way. It is a difficult thing to control, but we are doing everything we can. Now, we are even looking at the use of canines to enhance our drug surveillance.

Mr. MOORHEAD. In your statement you say that 27 percent of the 61,536 inmates are illegal aliens or noncitizens. Why can't they be deported? Is it necessary that all of these people be supported by our Government, or can some of them be sent home?

Mr. QUINLAN. Well, some of them can be sent home under the international exchange of prisoners treaties that exist between the United States and, I think, 27 countries. The problem, however, is that we do not necessarily have agreements with some of the countries from which we have the most foreign prisoners; for example, 5 percent of our prisoners are from Cuba, 5½ percent of our prisoners are from Colombia, and 5 percent are from Mexico.

We do deport them, as you know, at the conclusion of their sentence. But the feeling is that so long as there is the constitutional right of a person convicted of a Federal crime to have access to the courts and access to counsel, that to remove someone against their will to their home country would violate the Constitution.

Mr. MOORHEAD. They might choose that rather than serve 5 years in prison, though, if they have their choice.

Mr. QUINLAN. I am sorry.

Mr. MOORHEAD. They might choose to go home and have their sentence cut substantially rather than serve out all their time.

Mr. QUINLAN. Well, they might. But we would suggest that, you know, maybe at some point there be a mechanism developed where they could serve their sentence in their native country and still serve the purposes of our criminal justice system without costing our system so much money.

Mr. MOORHEAD. Mr. Huggins, in the early 1970's, rehabilitation of inmates was thought to be the goal of a successful prison system. In the 1980's, warehousing and punishment seemed to be all we could accomplish in the prison system. With programs like inmate financial responsibility, home confinement, boot camps, and Federal Prison Industries, are we returning to the hope of the 1970's for rehabilitation in the 1990's?

Mr. HUGGINS. Not to the extent, sir, that I believe we did in the 1970's. I think that the byline of the 1970's was everything works. Perhaps the byline of the 1980's was nothing works. I think the byline of the 1990's will be something works. I think what we are finding that there are programs around the country that are successful. We have better evaluation means to evaluate programs and their effectiveness; so, I think what you will find is a concentrated effort to identify successful programs, thereby focusing our resources on those things that have proven to be—

Mr. MOORHEAD. Is that one of your goals?

Mr. HUGGINS. Yes, sir, it is.

Mr. MOORHEAD. Thank you, Mr. Chairman.

Mr. HUGHES. The gentleman from Massachusetts.

Mr. FRANK. Mr. Quinlan, on the Prison Industries it seems to me there are two aspects that can be separated. One is the rehabilitative, training, vocational, educational effect of the work they do. Now, if I am correct, your people don't do much marketing.

Mr. QUINLAN. There is very little marketing.

Mr. FRANK. Right. I mean, you do the physical work.

Mr. QUINLAN. That is correct.

Mr. FRANK. The problem I have is that in terms of an effort that is worth trying in terms of rehabilitative and vocational training—because I don't think it is really an economically justified activity—the problem is that the costs are sometimes borne disproportionately by those workers in the society who are in competitive occupations.

So one way to deal with this, it would seem to me—and I know we got the market study coming—would be to give the stuff away. That is, it would seem to me, we could make an effort to find people who needed this material—day-care centers, homeless shelters, et cetera—who are not really competitive in the private market, and that would resolve my problems altogether.

I would like to have you look into that and get a number. I would rather say: OK, it is part of the rehabilitation program. We will appropriate  $x$  dollars to pay these people. I think I am correct, if we produced for charitable purposes, it would have zero negative effect on your rehabilitative purposes. Is that correct?

Mr. QUINLAN. That is correct.

Mr. FRANK. Well, I would like to look at it that way, so that we are not talking about eliminating a potentially useful way of reducing recidivism and providing these people with better training afterwards. The problem, of course, occurs when we get one group

of people who have committed crimes competing with a group of people who are working hard for low wages because they don't do much high tech stuff. I don't think, you know, your higher income people are being competitive.

So, I would hope you would look at that. It would seem to me we could find a solution in this society. An analogy is the surplus food program. We run a surplus food program which is, on the whole, noncompetitive. We take our surpluses with retailers and producers. I would think there is enough need in society, in a variety of facilities, for furniture, clothing, and a whole range of things.

We could build up a stockpile so that when things came up, like the Kurdish situation, we might be able to do it. I would be eager to see us do that, and I intend to pursue that, but I hope you will.

Mr. QUINLAN. Could I respond?

Mr. FRANK. Sure.

Mr. QUINLAN. I would only point out, Congressman Frank, that it would require additional appropriations to buy the supplies.

Mr. FRANK. I understand.

Mr. QUINLAN. Currently UNICOR is self-sufficient.

Mr. FRANK. I appreciate that. I would be interested—you don't need to do this off the top of your head. If you have it, I will take it.

Mr. QUINLAN. Yes.

Mr. FRANK. I would like to go to my colleagues and make the argument that rather than cut this thing off altogether or have them expand competitively, it might be worth  $x$  million dollars. I assume we are talking about the tens of millions, maybe a little more. But it seems to me that is within the range of what we do.

The problem is that there is a cost now, and the cost displaces people in the private sector, and I would rather do it up front that way.

Mr. QUINLAN. I understand your point and, you know, I certainly respect that. I just would say also that, if we were to have that kind of a program, it would have to be something that would produce a product that the homeless or someone would need.

Mr. FRANK. No question about it.

Mr. QUINLAN. I wouldn't want it to have to be surplus property that is stuck in a warehouse because the inmates would lose their incentive.

Mr. FRANK. I understand that. I believe if you look at the society now, and you went to homeless shelters and you went to day-care centers, nursing homes, and a whole range of other things, that there are facilities, poverty programs, there are people who have a need that they cannot meet through the private sector. And I don't think we would have trouble because the network is out there. Community action agencies in addition to homeless shelters and a whole range of things that I think would do it.

Mr. QUINLAN. We are looking at, Congressman, separate and apart from the market study, the whole aspect of whether we could use UNICOR products in exchange for foreign aid in certain countries. Instead of giving them  $x$  million dollars, give them  $x$  thousand blankets.

Mr. FRANK. Well, that would obviously have relevance in refugee situations. I mean, what we are talking about, you could produce. I am delighted to hear that.

Let me ask you a question now, because we mentioned aliens. You mentioned the Cubans, what is the status of those Cuban detainees who are detained forever? Do you still have some? Do we have some Cubans that we have no resolution for? What are we going to do about it?

Mr. QUINLAN. OK. We do have some that we have no resolution to. We have been successful in the last year or so, Congressman, in moving several of the Cubans back to Havana. Also, we have been successful in working with the Immigration and Naturalization Service and the Community Relations Service in putting a lot of Cubans that were not going to be a continuing threat to public safety into American communities.

There is a number, at this point I would estimate it is about 500, who will not, because of serious criminal behaviors or mental disabilities or other things, probably ever make it in our society. We are working with the State Department in the hope that at some not-too-distant date we will be able to work out an arrangement with the State Department.

Mr. FRANK. I think we need to set a time certainty here. I assume, obviously, there are people who are murderers, and if they would have been getting a life sentence there, they would be getting a life sentence here. That is not a problem. But, it is the case that some of those people are people who have been confined for far longer than they would have been under virtually any sentence that we can imagine for what they did. I believe we have to set a date. I mean, it would be nice if Fidel Castro left the earth tomorrow and something better came on in Cuba.

But there is a real humanitarian problem when we are holding all these people. What is your sense of what is the outer limit? We are holding people because we have nowhere else to put them, and we locked them up, and it is expensive and it is unfair. Have you got a time limit?

Mr. QUINLAN. I don't think, Congressman, that we have ever talked about a limit, but I am very sensitive to the same issues that you mention.

Mr. FRANK. Good. Then let's talk about a limit.

Mr. QUINLAN. For that reason, we are working in the Bureau of Prisons, and this doesn't solve the problem, but what we are working toward is making sure that the Cubans who have not been given a chance to make it in American communities for risk of public safety, are given a chance to exist in a fairly normal way within our institutions. What we call mainstreaming. However, this doesn't solve the ultimate problem.

Mr. FRANK. Normal within the institution. Not being—

Mr. QUINLAN. No. It is very difficult to explain. Let me just point out it is a serious problem for our wardens and other staff in our institutions because they have to deal with these people who are very, very dangerous and are very—

Mr. FRANK. And angry.

Mr. QUINLAN [continuing]. Angry, and are difficult to deal with.

Mr. FRANK. And nothing works, rehabilitation or anything else. Well, I think that is a good point. It is an unfair burden on you. You are not the author of this policy, you are stuck with me. I think that is something we should be looking at, Mr. Chairman, and maybe in conjunction with the people at INS. With that subcommittee, we should take a look.

Last point. I understood correctly that, in response to your question from the chairman, the Bush administration will be proposing sometime soon letting some prisoners out earlier. Is that correct?

Mr. QUINLAN. The Department of Justice is looking at working with the Bureau of Prisons in considering an additional "good time" provision that would apply only to—

Mr. FRANK. That would mean letting some people out of prison before their sentences expired.

Mr. QUINLAN. Yes. What happened, Congressman, after the Comprehensive Crime Control Act in 1984, is "good time" got reduced to a very small percent of the sentence. It used to be 50 percent of the sentence. Congress changed it to 15 percent. We would like for certain longer term offenders to make it somewhere in the middle.

Mr. FRANK. I am not being critical, I just think people ought to get credit for the policies they propose. We will be getting a proposal to let some people who have been sentenced out before their sentences expire because that is a better way to deal with it.

Mr. QUINLAN. It is not that. Congressman, I don't mean to be talking out of school, but I do work for the Attorney General, and the President does have input on these kinds of issues. I would let the chairman know that this is something that we are looking at.

Mr. FRANK. Oh. It hasn't yet been approved?

Mr. QUINLAN. Pardon?

Mr. FRANK. This is not yet a definite decision?

Mr. QUINLAN. No, sir, it is not.

Mr. FRANK. OK. I understand that. All right. Well, then we shouldn't talk about it too much because I might screw it up.

[Laughter.]

Mr. FRANK. To label it properly at this point might be to impede its implementation, so we will wait until after the fact.

Mr. HUGHES. We are going to have to find a new word for that. It is like we don't use the word "tax" any more, it is "revenue enhancers."

Mr. FRANK. It is not exactly an enhancement. I don't know what it is.

Mr. QUINLAN. What it is, it is an antienhancement. It is a management tool more than anything else.

Mr. HUGHES. Human resource enhancement or something. Yes. The gentleman from North Carolina.

Mr. COBLE. Mr. Chairman, Mr. Fish has requested that he precede me and that suits me all right, if it is OK.

Mr. HUGHES. That is fine.

The distinguished gentleman from New York.

Mr. FISH. Thank you. How about a benign deterrent? Is that a good term?

Mr. HUGHES. We can work something out.

Mr. FISH. Director Quinlan, I have nothing but praise for your efforts in searching for surplus facilities that you mentioned in

your opening remarks. My only question is, are you getting cooperation from other departments of the Federal Government, such as the Department of Defense or State governments? And, if not, is there any way that we could help you?

Mr. QUINLAN. Well, thank you very much, Congressman Fish. We have had a tremendous amount of cooperation from the Department of Defense in the area of opening minimum security facilities on military bases. In the last 3 or 4 years, we have quadrupled the number of prison camps on military bases.

But, I would be less than candid to say to you that I haven't been disappointed in some of our initiatives with the Department of Defense because, you know, we have always looked for more support than they have necessarily been able to give.

The bottom line in terms of what is happening in the search for prison locations is, except for one or two rare exceptions, we have more than enough surplus land or donated land available to us to build all the prisons that we will need till the end of this century.

Mr. FISH. Fine.

Mr. QUINLAN. So, we are in good shape.

Mr. FISH. Getting back to the FPI, how many former inmate employees of FPI have been placed in private industry jobs following their release? Specifically, is there a demonstrable relationship between FPI training, either general training or training in a particular product line, and a former inmate's employment following release?

Mr. QUINLAN. There is a major Bureau of Prisons study that is not yet complete that I expect will be included within the market study, actually, Congressman Fish. My general sense, however, is that there is not an appreciable increase in the inmate's ability to be placed in a particular industry because of former employment in Federal Prison Industries.

What we try to do is teach people skills that they do not come into prison with, specifically: The ability to apply for a job, keep a job, and get to work on time, stay on the job, do a quality job, be part of a team that creates a product. When they do that consistently and get promoted, it tends to create an environment that they have never experienced before. Most of the people who come into Federal prison, if you look at their job history, have not held steady employment for any major period of their life. We are teaching a very important social value, we believe, and a life skill that many of them don't have.

Now, whether that translates into them going out and getting a job in the textile industry or the printing industry or whatever doesn't necessarily follow. But they are, we think, better citizens, or potentially better citizens if they have these good work habits and skills.

Mr. FISH. Director, are you saying that the employment ethic or employment behavior, employment motivation, is more important than developing a particular skill, whether it be in plastics, electronics or furniture?

Mr. QUINLAN. Yes, Congressman, because of the following reason. What we tried to do at a much earlier stage in our organization's history is to place people in jobs where they, in their home community, might be able to fit into a particular job.



Excuse me?

Mr. FISH. Well, I presume, Director Quinlan, that there is an argument for concentrating in those product lines that are not—since it doesn't matter much what product line it is, concentrate in those that do not cause such heartburn in the private sector.

Mr. QUINLAN. Oh, absolutely. I would support that 100 percent.

Mr. FISH. OK. But you cannot tell me, you don't have any statistics with respect to this rehabilitation and training function?

Mr. QUINLAN. I am sorry. I couldn't hear the end of the question.

Mr. FISH. UNICOR has no statistics at present to demonstrate that it is fulfilling its rehabilitation and training function; is that what you are telling me?

Mr. QUINLAN. I don't think I meant to say that, Congressman. What I am saying is that I don't think we can demonstrate that prisoners who have been through the UNICOR experience necessarily have a better recidivism rate than prisoners who were in other work experiences in prison.

Mr. FISH. I hadn't asked that yet.

Mr. QUINLAN. Well, that is what I thought you were asking.

Mr. FISH. I asked if there was a demonstrable relationship between the training and an inmate's employment following release. My next question is—do you have any information as to the extent of recidivism among this category of prisoners?

Mr. QUINLAN. I am really at a disadvantage, Congressman Fish, because the research results are not finished.

Mr. FISH. OK. All right. Well, that is an answer.

But we will be getting some information on it?

Mr. QUINLAN. Yes, sir.

Mr. FISH. And this is part of the what?

Mr. QUINLAN. It will be part of the market study.

Mr. FISH. The market study.

Tell me this, please. Is UNICOR proceeding with its plans to get into the envelope business? If so, why? Because, as we know, envelope manufacturing is a highly capital intensive, and not labor intensive, industry.

Mr. QUINLAN. The envelope initiative was approved by the UNICOR board of directors, which is a presidentially appointed board, after an announcement in the Commerce Business Daily and hearings that were held out in Lompoc, CA. What the board of directors heard testimony about was the fact that there was a fairly large Federal envelope business that we could enter without having an undue impact on the private sector, and that it would employ a sizable number of Federal inmates using equipment that wasn't necessarily quite as sophisticated as the private sector would use. We visited some of the envelope plants that are in the private sector, which use all kinds of equipment that eliminate jobs. We would take those components off the equipment and put inmates on those different jobs, so that we could keep people busy.

Mr. FISH. I presume that even though this equipment is older, it has to meet OSHA tests and requirements?

Mr. QUINLAN. Absolutely.

Mr. FISH. And safety and so forth?

Mr. QUINLAN. Absolutely, Congressman.

Mr. FISH. Thank you very much, Director.

Mr. QUINLAN. Thank you.

Mr. HUGHES. The gentleman from North Carolina.

Mr. COBLE. Thank you, Mr. Chairman.

Gentlemen, good to have you with us. The gentleman from New York, the gentleman from Massachusetts, and the chairman as well, have directed comments to FPI, so I won't alter that.

Now, as you know, Mr. Quinlan, I am subjective on this matter. I represent the furniture and textile capitals of the world. I will, however, try to set my subjective hat aside and try to be objective about it. I think the chairman was right when he said the nature of the beast is going to always attract some disagreement.

I want to ask you this question. Do you all at FPI extend a preference to items that the Department of Defense, for example, could not get domestically?

I will extend that a bit.

Mr. QUINLAN. OK.

Mr. COBLE. If these products could be identified and emphasized, it seems to me at least that would assuage some of the burden against my furniture workers and my textile workers.

Mr. QUINLAN. Yes.

Mr. COBLE. If it is not manufactured domestically, perhaps we could get FPI in that loop.

Mr. QUINLAN. Absolutely. One of the initiatives that we have looked at in a very important way is automated data processing. A lot of that work is being done offshore. We are trying to do more of it in the United States in our prisons to ensure that we don't compete against anyone who does that work in the United States.

I don't have a good answer. I will provide you with a better answer through the mail, Congressman.

Mr. COBLE. OK.

Mr. QUINLAN. I don't have a good answer.

Mr. COBLE. I would like to get that.

I want to follow up, again, on Congressman Fish's question which related to inmates trained for a certain role, furniture, let's say, and then when they are released whether or not they pursue that on the outside. You said that you would get that for him as well, I think.

Mr. QUINLAN. Well, there is a research project that is ongoing right this very minute that will, I think, answer that issue.

Mr. COBLE. Well, now that is the one that is due to be finalized in August?

Mr. QUINLAN. Well, no, sir. The research effort that I am talking about is a research study that is being done by the Bureau of Prisons as part of the market study.

Mr. COBLE. OK. Good. All right.

Mr. QUINLAN. It is going to be submitted to Deloitte & Touche and then they are going to, I think, include it in their market study.

Mr. COBLE. I will look forward to that.

Mr. Chairman, just in conclusion, I want to ask two more brief questions. What bothers me, is that I hear oftentimes, "Oh, well, don't worry about XYZ Furniture Factory that employs 25 people and had to go under because they couldn't compete with the preference that you all at FPI enjoy," or "They will be able to make it up

in the commercial sector." That is the bureaucratic answer. It is easier said than done, particularly now when the economy is somewhat unstable. So, I just want to let you know, Mr. Quinlan, I am still uneasy, as my late grandma used to say, about this and will be watching it very carefully.

Mr. QUINLAN. I appreciate that.

Mr. COBLE. Two questions. Two additional questions. How many civilian employees, that is, noninmates, are employed by UNICOR?

Mr. QUINLAN. Approximately 2,000.

Mr. COBLE. Two thousand? Of course, that is nationwide.

Mr. QUINLAN. Yes, sir.

Mr. COBLE. How many inmates are currently employed?

Mr. QUINLAN. Fourteen thousand.

Mr. COBLE. Two thousand and 14,000. Right?

Mr. QUINLAN. Yes, sir.

Mr. COBLE. Thank you, sir.

Mr. QUINLAN. Thank you.

Mr. COBLE. And I don't believe I have any questions for you, Mr. Huggins.

Thank you, Mr. Chairman.

Mr. HUGHES. I thank the gentleman.

Well, as you can see, there is a lot of interest in the Federal Prison Industries, and I look forward to the market study and working with you, Mr. Quinlan, in attempting to defuse this issue. We will never defuse it entirely, but it is an important component of the Federal prison system and we need to maintain that component and strengthen it, if anything, in the years ahead, because projections show that we are going to be increasing in numbers. The overcrowding problem, unfortunately, will be with us for many years, so we obviously are going to have to work hard to maintain some consensus in the Congress for that important program.

Mr. QUINLAN. I look forward to it.

Mr. HUGHES. One of the things that we do well in the Congress is we continue to increase sentences. Mandatory sentences have become very fashionable, and I support them, and I am probably as guilty as any member in increasing sentences. But we get into a race each year as to who can offer, on the floor in particular, the severest penalty. We could come out with a death penalty and somebody would think of something to try to up that.

My question is what do you think we can do to develop some impact statements as to what impact some of the laws we are passing are going to have on our corrections systems? We often don't think about that. That is not factored in. Would the Bureau of Prisons be the proper agency to give us an impact statement, or perhaps maybe we should be looking to Mr. Huggins' shop to be assisting us?

Mr. QUINLAN. I believe, Mr. Chairman, that the Bureau of Prisons probably has the best resources on the issue of prison impact studies.

Mr. HUGHES. Why don't we do that? Wouldn't that make sense for us to begin to do that?

Mr. QUINLAN. I think it would make enormous sense. We do it occasionally for Members who call us and ask for information about what the impact of a certain piece of legislation would do in

the criminal justice area. If it could be incorporated in all or more than we currently see, it might make a difference in terms of how the law is structured.

I am not suggesting that we need to cut back on Federal initiatives in the criminal justice area, but I do think it is important that legislators have all of the facts at the time that they are making a decision, and I think the impact of the legislation is an important fact.

Mr. HUGHES. Well, I mention that because I think so. We don't often give adequate consideration to what the impacts are going to be. It sounds like a win-win-win situation, and, unfortunately, while we see a lot of support for increasing sentences, we don't see as much support for providing the resources to deal with the problems, and that is why the system is helter-skelter today.

In a recent report prepared by the General Accounting Office at the request of our colleague, Charlie Rangel, it was recommended that the Bureau of Prisons make extensive use of double-bunking when determining the capacity of Federal prisons and expansion needs.

What is the position of the Bureau on that recommendation?

Mr. QUINLAN. Well, I am delighted that you would give me an opportunity to respond to that GAO report, which was just released yesterday. The Bureau of Prisons has been, I think, undeniably the leader in the Nation on the issue of a double-bunking standard. I have personally, as a member of the American Correctional Association Standards Committee, argued for all States to adopt a double-bunking standard. It is very amusing to me that GAO would have taken this stand in light of our role in this area.

We in the Bureau of Prisons in 1988 adopted a double-bunking standard for our new institutions. We have been moving in that direction. Of course, as you know, virtually every one of our current prisons is double-bunked. In fact, some of our prisons are totally double-bunked. What we are talking about, however, what GAO is talking about, is calling the design capacity of those institutions two people to a room. This is despite the fact, Mr. Chairman, that when some of those facilities were built in 1940 and earlier, the rooms were 45 square feet and now they are 90 square feet. If we say that that is the rated capacity, we are, I think, creating a major constitutional dilemma for the Federal Government. I don't think personally that the courts will accept that as a standard. The industry doesn't accept it. There is no State, out of the 50 States, to my knowledge, that accepts any double-bunking as a standard. We are the only correctional agency in this Nation that has double-bunking as a standard for our medium, low and minimum security institutions that are being built at the present time.

The reasons we don't think it should be the standard are many. Number one, the facilities that are not double-bunked are smaller. Number two, double-bunking takes away a great deal of the flexibility if the institution wasn't designed for two people to a room. Our projected standard is going to be two-thirds of the inmates. That gives us the flexibility to deal with a quick jump in population or a particular problem in one institution that requires us to move people to another facility.

We have looked at this problem long and hard, and I believe that the GAO report is, although well-intentioned, not taking into account some of the very significant correctional issues that have gone into the whole discussion of double-bunking.

Mr. HUGHES. In your view, what is the appropriate role for the Federal Bureau of Prisons in the development of intermediate sanctions?

Mr. QUINLAN. Well, I think the Federal Bureau of Prisons personally has a role in every correctional initiative because we are seen as, whether we like it or not or whether we advertise it or not, one of the leaders or models for corrections. I feel, as a personal initiative and as an organizational initiative, that we should be on the cutting edge of intermediate sanctions, as well as other kinds of programs in the correctional area, whether it be inmate work programs, drug treatment, or literacy programs. So, I definitely think we have a major role.

Mr. HUGHES. Director Huggins, how about at the NIC? What do you think is the proper role?

Mr. HUGGINS. The role of the NIC is to facilitate the flow of information and experience among and between correctional agencies, to provide training based upon the experience of correctional folks around the country and to provide technical assistance to those agencies and programs developing and implementing of an intermediate sanctions program. I see those all as very important roles.

Mr. HUGHES. What do you see as the largest demand for your services from the States?

Mr. HUGGINS. Training.

Mr. HUGHES. Training?

Mr. HUGGINS. Followed closely by technical assistance. Our ability to respond to technical assistance requests has declined by a little over 25 percent in the last 5 years, while the 33 courses we offered at the National Academy of Corrections last year were oversubscribed by an average of 500 percent. So, I think you could successfully argue for either of those. But in my opinion, it is training.

Mr. HUGHES. Have you initiated any communications with the Bureau of Justice Assistance relative to the implementation of the correctional options provisions that were contained in the Comprehensive Crime Control Act, which was title I of our anticrime bill?

Mr. HUGGINS. Director Regeir and I, and other OJP officials, meet on a regular basis and we have discussed that. However, until there is an actual appropriation, there is not a lot we can do. We are working with BJA on a number of other issues, all of which seem in some way related to the issue of intermediate sanctions. So, there are ongoing talks.

Mr. HUGHES. Has anyone at the Department of Justice requested an appropriation?

Mr. HUGGINS. I don't know the answer to that question, sir. It is kind of out of my bailiwick.

Mr. HUGHES. I see. OK. Just curious.

Marion Penitentiary has had a water problem for quite a while. What are we doing to correct it?

Mr. QUINLAN. We are in the process, Mr. Chairman, of building or constructing five new wells on the ground at the Marion institution which should be finished within 1 year.

Mr. HUGHES. What is the status of the construction of the facility at Florence, CO?

Mr. QUINLAN. The Florence facility is a complex of facilities. There will be four correctional facilities operated there by 1994. They are on target, moving ahead very quickly. The first two facilities will open in early 1993.

Mr. HUGHES. They are the medium security facilities?

Mr. QUINLAN. They are the medium and the minimum security facilities.

Mr. HUGHES. And you have a mail facility being constructed?

Mr. QUINLAN. No. We have a high security and administrative maximum security, Mr. Chairman, that will be primarily used for the type of offenders we are currently keeping in Marion Penitentiary.

Mr. HUGHES. If you will permit me to be parochial for just a moment, what are the plans to increase your capacity at Fairtown?

Mr. QUINLAN. To increase our capacity? We have a plan, Mr. Chairman, to build an additional unit at Fairtown that will initially house detention cases and ultimately be used as a part of the institution's sentenced population. That will be unnecessary, however, if the Bureau is successful in having a prison built in downtown Philadelphia.

Mr. HUGHES. What is the status of the proposal to build a jail facility at Fairtown?

Mr. QUINLAN. To the best of my knowledge, and I am sorry that I cannot say for sure, but I believe that the status of that is that it is moving ahead.

Can I submit that for the record?

Mr. HUGHES. Yes. Would you do that for me?

Mr. QUINLAN. Sure.

[The information follows:]



U.S. Department of Justice  
Federal Bureau of Prisons

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MAY 14 1991

Sub on Courts

Office of the Director

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May 6, 1991

MAY 10 1991

Honorable William J. Hughes  
Chairman, Subcommittee on Intellectual Property  
and Judicial Administration  
House of Representatives  
Washington, D.C. 20515

Dear Mr. Chairman:

Thank you for providing me with the opportunity to testify at the recent oversight hearings regarding Federal Bureau of Prisons' operations. I trust the information presented in my testimony was useful to you, other members of the Subcommittee, and your staff.

I appreciate your support of the Bureau of Prisons and, in particular, your insight into the importance of Federal Prison Industries operations in the Bureau at a time when they are so vital to our continued ability to effectively manage prison crowding.

For your information, the jail unit to be added at Fairton will be a 120 inmate unit, renovated from an existing housing area at a cost of \$1 million, and staffed with 22 positions. You may also be interested in knowing that we are beginning to plan for the addition of a witness security unit, to further enhance operations there. This will be a 60-bed unit, constructed at a cost of \$6 million, employing 27 staff.

Please feel free to contact me if I can be of any further assistance.

Sincerely,

J. Michael Quinlan  
Director

Mr. HUGHES. How does overcrowding in the women's correctional facilities compare with the overcrowding in the men's facilities?

Mr. QUINLAN. The female facilities are a little bit less crowded than the male facilities by, I think it is a factor of about 7 or 8 percent. I think male facilities are on average about 160 percent of capacity, females are about 152-153 percent of capacity.

Mr. HUGHES. What types of intermediate sanctions, Mr. Huggins, offer the greatest promise as effective and efficient means of punishment, in your judgment?

Mr. HUGGINS. I don't think there is a single one, sir. I think that there are a variety of sanctions that must be taken together, which is one of the cornerstones of intermediate sanctions. It is not a program, but consists of several components.

Mr. HUGHES. So, you think it is a matter of making more options available to sentencing judges and corrections officials?

Mr. HUGGINS. That is correct. I think those decisions have to be made locally, taking local considerations into mind. Home arrest with or without electronic incarceration, intensive supervision, boot camps, community work, restitution—all of these are examples of programs that are working very successively around the country.

Mr. HUGHES. Thank you. Well, I have some additional questions. We will just submit them in writing. The record will remain open for you to submit some responses to those questions, and also to some of the questions that you want to submit some additional material on.

Mr. QUINLAN. Thank you.

Mr. HUGHES. I would like to visit some of the facilities, including the Philadelphia urban work programs sometime. It is not very far from my district, and I would like to see just what sort of things you are doing there.

Mr. QUINLAN. Excellent. We would appreciate it.

Mr. HUGHES. That sounds like an exciting and innovative program which appears to be successful, and I would like to maybe view that sometime.

Mr. QUINLAN. Excellent. I would like to accompany you.

Mr. HUGHES. All right. Well, thank you very much. I appreciate your testimony. As always, you have been very helpful.

That completes the hearing for today and the subcommittee stands adjourned.

[Whereupon, at 12:28 p.m., the subcommittee adjourned, to reconvene subject to the call of the Chair.]



# APPENDIXES

## APPENDIX 1.—LETTER FROM HON. WILLIAM J. HUGHES, CHAIRMAN, SUBCOMMITTEE ON INTELLECTUAL PROPERTY AND JUDICIAL ADMINISTRATION, TO J. MICHAEL QUINLAN, DIRECTOR, FEDERAL BUREAU OF PRISONS, U.S. DEPARTMENT OF JUSTICE, DATED MAY 14, 1991

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## Congress of the United States

### House of Representatives

### COMMITTEE ON THE JUDICIARY

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MAJORITY—375-3661

MINORITY—375-6002

May 14, 1991

Mr. J. Michael Quinlan  
 Director  
 Federal Bureau of Prisons  
 320 First Street, N.W.  
 Washington, DC 20534

Dear Mr. Quinlan:

Thank you for your recent appearance before the Subcommittee on Intellectual Property and Judicial Administration. The April 24th hearing provided the Subcommittee with a very useful basis for further inquiry and study of the state of our correctional system. As I mentioned at the close of the hearing, I did not have the opportunity to ask many important questions about the Federal Prisons that I would have liked to have asked, if time had allowed. I would, therefore, very much appreciate your providing a written response to the following questions for the hearing record:

### Prison Overcrowding

1. To what extent is the Bureau of Prisons consulted on the impact that Administration crime proposals would have on the Federal prison population?
2. Would you be able to prepare a prison impact statement for the Subcommittee that assesses the impact of President Bush's Crime Proposal -- both in terms of the impact it would have on the Federal prison population and how much that increase would cost?

### Legislation

3. Do you anticipate that the Department of Justice will propose any legislation dealing with corrections in the 102nd Congress?

### Intermediate Sanctions

4. What intermediate sanctions programs does the Bureau of Prisons currently have in place, and how do you determine what inmates to assign to these programs?

Mr. J. Michael Quinlan  
May 14, 1991  
Page Two

Drug Treatment

5. How many inmates in the Federal prisons today have requested drug treatment, and how many are currently receiving treatment for drug abuse?
6. Has the Bureau of Prisons made any preliminary findings about the efficacy of drug treatment for inmates?

Prison Management

7. What is the proportion of inmates in Federal prison today who are eligible for parole? Do you anticipate the continued implementation of the sentencing guidelines and the change in parole eligibility for inmates to have an impact on prison overcrowding or management?
8. The Federal prisons have a tradition of leadership and professionalism. Many states follow the example of the Federal prisons. Does the Administration currently have any innovative proposals or pilot projects to improve the management, safety or quality of the Federal Prison System?
9. Federal prison inmates have the opportunity to file administrative claims for relief without resorting to action in Federal Court. What are the nature of the administrative claims filed with the Bureau of Prisons? What percentage are medical claims?
10. How are responsibilities for detention of pre-sentenced individuals divided between the Federal Bureau of Prisons and the U.S. Marshals?

Federal Prison Industries

11. Has the Bureau of Prisons taken any steps to address concerns raised by the labor unions about product selection and import sensitive industries?
12. What steps has UNICOR taken to bring labor into the process of identifying new products and services?
13. Does the UNICOR Board of Directors still have a vacancy for the representative of Labor? When do you anticipate that this vacancy will be filled?

Mr. J. Michael Quinlan  
May 14, 1991  
Page Three

14. How many new jobs have been added to the prison industries program this year? How are employment opportunities in prison keeping pace with the increases in the inmate population?

Medical Care

15. The management of a prison medical care system is, understandably, very different from the operation of a medical delivery system in a city or town. What are the major difficulties that you face in providing medical care to Federal inmates?

16. The New York State correctional system has an external Medical Review Board to review cases where inadequate care has been alleged. Do you think a similar board would be useful for the Federal Prison System?

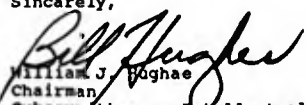
Women in Prisons

17. As the number of women in Federal prison increases, do you believe that we need to examine the needs of this inmate population and their families, for example, with respect to maternity issues, health care and visitation with children?

18. There has traditionally been a concern that women inmates are not treated the same as their male counterparts with respect to the availability of services, inmate classification and geographic placement. How would you assess the situation today?

Thank you for your responsiveness to the Subcommittee's questions and concerns.

Sincerely,

  
William J. Hughes  
Chairman  
Subcommittee on Intellectual Property  
and Judicial Administration

APPENDIX 2.—LETTER FROM J. MICHAEL QUINLAN, DIRECTOR, FEDERAL BUREAU OF PRISONS, TO HON. WILLIAM J. HUGHES, CHAIRMAN, DATED JUNE 5, 1991



U.S. Department of Justice  
RECEIVED  
Federal Bureau of Prisons

JUN 10 1991

Sub on Courts

Office of the Director

Washington, D.C. 20534

June 5, 1991

Honorable William J. Hughes  
Chairman  
Subcommittee on Intellectual Property  
and Judicial Administration  
Committee on the Judiciary  
United States House of Representatives  
Washington, DC 20515-6116

Dear Mr. Chairman:

Enclosed you will find the Bureau's responses to the questions posed as a follow-up to the April 24th hearing before your subcommittee. Also, we have reviewed the draft transcript of the hearing and enclose a copy containing our suggested edits.

If I can be of further assistance please call me. I look forward to our trip to the United States Penitentiary at Marion on June 28th. My staff will be in contact with your office with more details of the trip in the near future.

Sincerely,

J. Michael Quinlan  
Director

cc: Honorable Carlos J. Moorhead  
Ranking Minority Member

**Questions & Answers  
House Subcommittee on Intellectual Property  
and Judicial Administration**

**1. To what extent is the Bureau of Prisons consulted on the impact that Administration crime proposals would have on the Federal prison population?**

**A.** The Bureau is consistently asked to comment on proposed Administration crime proposals which have potential impact on our operations. We provide written comments on proposals which appear likely to have a significant effect on the prison population.

**2. Would you be able to prepare a prison impact statement for the Subcommittee that assesses the impact of President Bush's Crime Proposal -- both in terms of the impact it would have on the Federal prison population and how much that increase would cost?**

**A.** We anticipate that the proposed Crime Bill will have a significant effect on future prison population. The Crime Bill will enact increased penalties for firearms, explosives, terrorism and sex offenses which will undoubtedly increase the total number of inmates within the Federal Bureau of Prisons because periods of confinement will be longer. Currently, only six percent (6%) of the inmate population have been convicted of crimes related to firearms and explosives and seven tenths of one percent (0.7%) have been convicted of sex offenses. However, the increased prosecutorial emphasis resulting from the "Trigger Lock" program for firearms offenses and the longer sentences which will result from the passage of this bill will effect a commensurate requirement for additional prison resources.

Additionally, there is another area that may have a major effect on the population -- Drug Testing on Post-Conviction Releases. It is difficult to gauge the impact of this plan, since we do not know how comprehensive the testing will be. The fact that 47 percent of the Bureau's inmate population have experienced drug and alcohol dependency problems prior to their commitment, leads one to believe that the potential impact of this provision could be significant. This could create severe budget restraints and contribute significantly to the prison population. Moreover, we do not know how many releasees would violate their conditional release if such a plan were put into effect.

On the whole, we anticipate that both the increased penalties and the drug testing provisions, if enacted, will create major budgetary and implementation challenges. If this becomes a high profile and high priority item, the effect could be a dramatic increase in our population.

**3. Do you anticipate that the Department of Justice will propose any legislation dealing with corrections in the 102nd Congress?**

**A.** We anticipate that the Department of Justice will submit four separate proposals during the 102nd Congress which will have an impact on the Bureau of Prisons. We anticipate the submission of a legislative initiative which will grant the Bureau authority to place Federal prisoners in home confinement at any time during the final six months of their sentence. An additional initiative is being developed to protect professional medical personnel who provide contract services to the Bureau from personal liability along with the provision of legal representation by the Department's Civil Division. The Bureau has been assisting the Department in a legislative initiative which would exempt geographically-mobile Federal law enforcement officers from income and property taxation by States other than their declared home of record. The fourth legislative initiative would entitle Federal law enforcement officers working at Bureau of Prisons facilities in Lompoc, California to Interim geographic pay adjustments.

4. What intermediate sanctions programs does the Bureau of Prisons currently have in place, and how do you determine what inmates to assign to these programs?

A. The following is a description of the Bureau's programs on intermediate sanctions and how inmates are assigned to them:

#### Community Corrections Centers

Community Corrections Centers (CCC) are commonly referred to as halfway houses. The centers are designed to accommodate inmates releasing from Federal correctional institutions as they near their release dates, direct court commitments serving short sentences, and probation and parole cases. The Bureau currently has 262 CCCs under contract.

Approximately 60 percent of the 3,800 offenders in CCCs are institution transfers. These individuals are generally transferred during the last six months of their sentence. Placement is primarily for transitional purposes. The length of time an inmate is placed in a CCC is based on such factors as public safety, institution population levels and the inmate's need for transitional services. Approximately 12 percent of the offenders in a CCC are inmates serving sentences of less than one year, do not pose a threat to the community and the sentencing court concurs with the placement. The remainder of the offenders in the CCCs are probation/parole supervision cases.

To accommodate this varied population, two separate components have been established in each of our Community Corrections Centers:

The Pre-Release Component - This component is structured for the pre-release inmate, with emphasis placed on making a transition back into the community. This involves the inmate's participation in job counseling and spending time with relatives, to strengthen family ties.

The Community Corrections Component - This component is designed for the direct court commitment and probation cases, and is very restrictive and more punitive. For the most part, the only time the inmate is allowed away from the center is for employment or other approved program activity. This component is also available for inmates transferred from an institution if it is determined the extra restrictions would be appropriate to meet the individual needs of the inmate.

#### Intensive Confinement Center

The Bureau has recently established an Intensive Confinement Center (ICC) at Lewisburg, PA. The Center program is a highly structured environment for inmates serving their first period of incarceration. The concept draws from the "shock incarceration" approach and includes a six month schedule of six days per week, 16 hours per day of work, fitness, education and counseling components for both physical and spiritual wellness, while adhering to the basic philosophies of the Bureau in terms of humane treatment of offenders. Free time and amenities are severely restricted.

Eligibility criteria for this program:

- Serving a sentence of more than 12, but not more than 30 months
- Serving their first period of incarceration or having a minor history of prior incarcerations
- Minimum security needs

- 35 years of age or less
- Without medical restrictions
- Volunteers
- Court Recommendation

The institution phase of the ICC program is 6 months in duration. After completion of this portion of the program, the inmate will be placed in a CCC, followed by a period of home confinement. While in the community, the inmate will receive more intensive program assistance and supervision by Federal Probation and Bureau staff. If at any time a participant fails the requirements of the program, the inmate is subject to being removed and placed in a secure environment. We are planning to establish an additional ICC program for female offenders at our prison camp in Bryan, TX later this year.

### Home Confinement

Home Confinement is a term used to cover all circumstances in which the offender is required to remain home during non-working hours. Electronic monitoring equipment is usually, but not always, used to monitor compliance with the condition. Federal probationers, parolees, and inmates may be included in home confinement programs. It is a time of testing and an opportunity for offenders to assume increasing levels of personal responsibility. At the same time, it provides sufficient restriction to promote public safety and continue the sanction of the sentence.

The Community Control Project (CCP) is a joint effort of the Bureau of Prisons, the Probation Division and the Parole Commission. Those parole eligible inmates accepted into this program have their release date advanced for up to 180 days on the condition that they are placed in an electronic monitoring program for the period of the advancement.

The U.S. Probation's Home Confinement Program is home confinement provided in an increasing number of judicial districts, usually using electronic monitoring equipment. Probationers, parolees, sentenced inmates, and pretrial cases may be approved to be supervised through this program.

The Community Corrections Center Home Confinement is operated out of a CCC, which is under contract with the BOP. This contract, governing the operation of the CCC, allows the contractor to recommend an offender for placement on home confinement if it appears that the offender will derive no further significant benefit from continued CCC residence. The contractor is required to continue to collect weekly subsistence from offenders placed on home confinement at a rate not to exceed one half of the regular CCC per diem rate. Some CCC programs use electronic monitoring devices while others do not. Those offenders who are not electronically monitored are required to be in daily telephone contact with the CCC. Center staff make regular visits to the offender's residence and place of employment, and the offenders are required to report to the center on a scheduled basis.

### Work Camps

The Work Camp Program allows qualified inmates, who are 18 months from release, to perform physical labor for a local Federal agency. Currently, the Bureau of Prisons has cooperative agreements with the Forest Service in McKean, PA and the Defense Personnel Support Center in Philadelphia, PA. These cooperative agreements allow the other Federal agencies to accomplish mission related tasks that are currently unfunded in their budgets. From the Bureau's perspective, these agreements provide meaningful work for inmates who are supervised by civilian (non-Bureau) employees.

The Forestry Service Agreement employs inmates confined at a prison camp attached to the Federal Correctional Institution at McKean, PA. The inmates clear biking trails, cut brush, prune vegetation and clear litter in the Allegheny National Forest under the supervision of a Forest Service employee.

The Defense Personnel Support Center Agreement employs inmates confined at a CCC in Philadelphia to provide essential base and supply depot services such as landscaping, building maintenance, and general warehouse work under the supervision of civilian Department of Defense employee. The only time an inmate is allowed away from the center other than work is for approved program activities, such as counseling or religious services.

The possibility of expanding the work camp program to additional areas will be dependent on our ability to match Federal agency labor needs. We must continue to be sensitive that these inmates will not displace any portion of the civilian work force.

5. How many inmates in the Federal prisons today have requested drug treatment, and how many are currently receiving treatment for drug abuse?

A. All inmates who request drug abuse treatment receive diagnostic evaluations and subsequent treatment if indicated. Between October 1, 1989 and September 30, 1990, a total of 11,451 individuals received drug abuse treatment services. During the first six months of the current fiscal year, 8,901 individuals received treatment in Bureau of Prisons drug abuse programs.

6. Has the Bureau of Prisons made any preliminary findings about the efficacy of drug treatment for inmates.

A. An interagency agreement was reached with the National Institute on Drug Abuse in March of 1990, in order to fund a long term outcome evaluation for offenders completing these programs. Due to the recent enhancement of the Bureau's drug abuse programs, there has been insufficient time, as yet, to evaluate the outcome. We expect this evaluation to yield valuable information, including recidivism rates and effectiveness of drug treatment programs with the prison population.

7. What is the proportion of inmates in Federal prison today who are eligible for parole? Do you anticipate the continued implementation of the Sentencing Guidelines and the change in parole eligibility for inmates to have an impact on prison overcrowding or management?

A. Currently, 9.5 percent of the Bureau's 62,283 inmates are eligible for parole. The prison population will continue to be affected by the implementation of the Sentencing Guidelines and changes that are proposed in them. These changes will also have an impact on prison management to the extent that there are changes in the criminal and other characteristics of inmates, the length of sentences, and the numbers of inmates incarcerated. Similarly, the transition to a correctional system without parole will continue to be a factor in prison management.

8. The Federal prisons have a tradition of leadership and professionalism. Many states follow the example of the Federal prisons. Does the Administration currently have any innovative proposals or pilot projects to improve the management, safety or quality of the Federal Prison System?

A. One of our newest programs is the Intensive Confinement Center, located in Lewisburg, Pennsylvania. The Bureau's adaptation of the intensive confinement concept is unique because it offers a specialized program that provides a balance between a military boot camp and a facility with the



traditional Bureau values of humane treatment and orderly management. This is a pilot project; however, if successful, we plan to implement other intensive confinement centers throughout the country. A female Intensive Confinement Center was just recently approved and will be located on the grounds of the Federal Prison Camp in Bryan, Texas.

Many Federal and state prison administrators have found that prison labor programs considerably ameliorate the adverse effect of crowding and are essential for orderly prison management. Such programs also provide inmates the opportunity to acquire work habits and job skills. Federal Prison Industries, a self-supporting Federal Government corporation, employs and trains Federal inmates. Currently, Federal Prisons Industries operates 80 factories which employs about 20 percent of the Bureau of Prisons' inmate population. This program is the cornerstone of effective inmate management.

Our Unit Management concept, although not a recently developed program, has been very successful in effectively managing our inmate population. Unit Management within an institution separates the population into small, manageable units. The unit is supervised by a Unit Manager and a staff consisting of Case Manager, Counselor, Unit Secretary and Correctional Officer. This "team" approach has proven very effective in our system.

We have embarked on an enhanced training program for Bureau staff at all levels, from new employees to executive level personnel. All institutions have enriched their "refresher" staff training program and now incorporate Employee Development Managers and Specialists to assist staff with upward mobility.

The Bureau has enhanced its drug treatment program units at a number of Federal Correctional Institutions. These are unit-based comprehensive drug treatment programs which offer a very intensive approach to drug therapy. Inmates in these programs receive individual as well as group counseling and are separated from the general population at the institution. Drug program units are located at: Sheridan, OR; Seagoville, TX; Butner, NC; Tallahassee, FL; Lexington, KY; Fairton, NJ; Oxford, WI; and Rochester, MN.

The Bureau created a Management and Specialty Training Center, in Aurora, Colorado, to provide supervisory and management level training. This training has greatly enhanced the leadership and managerial skills in mid and upper level staff.

The Bureau has undertaken other new leadership and developmental techniques. Some of these are:

- **Leadership Forums** - provides leadership tools to mid-level managers/supervisors.
- **Cross-Development Series** - Manager/supervisors participate in cross-development correspondence courses. This provides them with the knowledge of how other departments operate.
- **Incentive Awards** - The Bureau has recently created a new incentive awards policy which more consistently rewards the superior performance of our employees. This has resulted in higher morale, increased quality and lower staff turnover.
- **Conferences** - Discipline-specific conferences are conducted every 12-24 months. This provides an opportunity for training, updating employees on issues, and networking.

The Bureau also has undertaken a number of initiatives to improve the management, safety or quality of the Federal Prison System. Some of these initiatives are:

- **Strategic Planning** - A systematic way that allows managers/supervisors to plan realistic goals 1-5 years in advance.
- **Management Assessments** - A systematic approach to developing guidelines for internal program reviews. The results of these reviews are shared with management/supervisors to enable them to correct deficiencies.
- **Succession Planning** - A systematic approach to assessing future managerial manpower needs and developing agency talent to meet those needs. Such programs are a feature of many private business organizations.

**9. Federal prison inmates have the opportunity to file administrative claims for relief without resorting to action in Federal Court. What are the nature of the administrative claims filed with the Bureau of Prisons? What percentage are medical claims?**

**A.** Federal prison inmates may file administrative remedies concerning any aspect of imprisonment except tort claims, Inmate Accident Compensation Claims, and Freedom of Information or Privacy Act requests. Claims actually filed cover the full range of issues concerning confinement. Approximately 8 percent of claims filed during the period from January through March, 1991 dealt with medical care issues.

**10. How are responsibilities for detention of presentence individuals divided between the Federal Bureau of Prisons and the U.S. Marshals?**

**A.** The U.S. Marshals Service is responsible for the detention of Federal pretrial offenders, except in those areas where the Bureau of Prisons operates large Metropolitan Detention Centers or smaller jail units located within various institutions throughout the country. Metropolitan Detention Centers are located in the following areas: New York City; Chicago; Los Angeles; Miami; San Diego; and Oakdale, LA. Jail Units are located at Pleasanton, CA; Englewood, CO; Milan, MI; Danbury, CT; Fairton, NJ; Memphis, TN; Phoenix, AZ; and Tucson, AZ.

**11. Has the Bureau of Prisons taken any steps to address concerns raised by the labor unions about product selection and import sensitive industries?**

**A.** Yes. Prior to producing any new product, or significantly expanding production of any existing product, a competitive impact study will be conducted by Federal Prison Industries' Market Research Group which specifically takes into account the impact of any such proposed production on labor and private sector industry. It will also examine the extent to which the industry has been impacted by foreign imports. This study will be made available for comment by the relevant trade associations, organized labor and industry. In addition, the relevant organizations will have an opportunity to appear in person before FPI's presidentially appointed Board of Directors to further explicate the consequences of proposed production, prior to any decision to undertake production -- a decision which can only be made by the Board. In addition, the Independent Market Study currently being undertaken by Deloitte & Touche, in its consideration of new products and services, will interview representatives from labor unions and more explicitly look at issues concerning labor and import sensitivity.

**12. What steps has UNICOR taken to bring labor into the process of identifying new products and services?**

**A.** Labor has a very important role to play in identifying new products and services, so as to spotlight promising prospects for expansion as well as where, in labor's view, expansion would result in FPI's impact being unreasonably great. This will be done in two ways. First, Deloitte and Touche has

surveyed and interviewed representatives from organized labor, in order to get from them data not otherwise available, as well as their perceptions concerning FPI's operations. In addition, FPI and the Federal Bureau of Prisons will meet with labor, as well as other "stakeholders" in the outcome of the Deloitte and Touche study, in order to discuss and seek support for the recommendations that will come from that Study. Also, as described in the previous question, we will continue to take into account the impact of any proposed production on labor.

**13. Does the UNICOR Board of Directors still have a vacancy for the representative of Labor? When do you anticipate that this vacancy will be filled?**

**A.** Yes. We have proposed names to the Department, but the final appointment is made by the President. We hope a decision will be made in the near future. The selection is sensitive, because Federal Prison Industries continues to attract a significant amount of concern from organized labor, with impending Congressional oversight.

**14. How many new jobs have been added to the prison Industries program this year? How are employment opportunities in prison keeping pace with the increase in the inmate population?**

**A.** In Fiscal Year 1990, 5 new factories opened at 4 separate locations, with a combined employment level of 701 inmates as of September 30, 1990. Of these five factories, two were not at their full employment complement at the end of the year because their openings were late in the fiscal year. An additional 391 inmates have since been employed at those locations since the beginning of Fiscal Year 1991. In Fiscal Year 1991, 2 additional factories are scheduled to open with approximately 500 more jobs to be established. One factory is scheduled to open in Fiscal Year 1992 with an additional 250 jobs to be established.

To keep pace with the increase in the prison population, FPI's long term plan is to employ 25 percent of the population. Additionally, alternative work programs are being developed as a supplement to FPI employment. These programs include cooperative efforts with the U.S. Forest Service to employ inmates in our National forests. Also, FPI plans to employ many more inmates in FPI factories on a half-time basis. This would afford them the opportunity of work in industries, while also participating in other correctional programs such as education, vocational training, and drug programs.

**15. The management of a prison medical care system is, understandably, very different from the operation of a medical delivery system in a city or town. What are the major difficulties that you face in providing medical care to Federal inmates?**

**A.** The major difficulty we face in providing medical care is the overuse of services by inmates based on their needs and desires. A prison health care system is different from others, in that inmates, in general, have not had access to general medical services prior to incarceration or have not taken good care of their health prior to arrival. Prison systems are also comprised of disproportionate numbers of individuals who are from countries with substandard health care practices, as well as large numbers who have histories of drug abuse, and/or alcohol abuse. Many of our physicians feel that we provide medical care to a great number of inmates whose physiological age is from 6 to 10 years greater than their chronological age.

Added to this is the fact that the Bureau's health care system is demand driven. There are few costs or disincentives for the inmate users, and in fact some identified incentives for using medical services. Inmates often overuse health care services by attending to their health care wants and desires, rather than true health care needs. The easy access and ready availability of services compound the issue.

We also face genuine difficulty in recruitment and retention of qualified medical staff in certain geographic locations because the Federal government is unable to compete with the salary and benefit structure offered by the local community to medical staff.

**16. The New York State correctional system has an external Medical Review Board to review cases where inadequate care has been alleged. Do you think a similar board would be useful for the Federal Prison System?**

A. We have a medical review system in place and are planning to augment this system in the very near future. When a question about the quality of clinical care or administration in health care arises in one of our institutions, the Bureau occasionally uses outside experts to conduct independent quality assurance reviews where indicated. Our internal quality assurance process uses teams consisting of different combinations of physicians, senior health systems administrators, and senior correctional services administrators, for reviews of either specific cases or the delivery of care in general where appropriate. We have established a Quality Management Advisory Group to assist in the development of numerous programs that mirror standard community quality assurance practices. One of the initiatives that has come from this group is to establish a contract for an external peer review process. We are currently looking at the market and are in the process of developing the contract language.

Additionally, we have established an Office of Quality Management, and have hired a full-time physician, board-certified in quality assurance, to manage the program. The quality assurance program uses standard quality assurance practices widely used in the community at large. Each institution has some form of on-going internal quality assurance program designed to objectively and systematically monitor and evaluate the medical care provided at the facility.

**17. As the number of women in Federal prison increases, do you believe that we need to examine the needs of this inmate population and their families, for example, with respect to maternity issues, health care and visitation with children?**

A. Yes, we need to continue to examine the needs of the female offender population. To more effectively meet the needs of female inmates, we established a Female Offender Section within the Correctional Programs Division in September of 1989. The primary purpose of this section is to monitor and evaluate programs and services available to female offenders.

A large percentage of women in Federal custody are single mothers of dependent children and will continue to be the primary care takers upon release. Therefore, visitation is important to both the mother and the child. In this regard, we are providing parenting classes to assist female inmates with the issues of separation, and long distance parenting and communication with their children. In some facilities, we have established a "children's center" adjoining the visiting room which is more conducive to quality time between the child and parent.

The Bureau's Health Services Manual has a section devoted to the requirements for female health care. These requirements are based on the American College of Obstetrics and Gynecology. There is an increased number of female inmates who are drug dependent, pregnant, or HIV positive. These problems have an impact on health care cost and staffing.

On June 7, 1991, the Bureau will be hosting an "Issues Forum on Female Offenders." Expected attendees are representatives from the Federal Judiciary; State departments of corrections; Department of Justice; American Civil Liberties Union-National Prison Project; McConnell-Clark Foundation; Committee United to Rehabilitate Errants; and the media. Discussions will consider the program and treatment of needs of women offenders.

18. There has traditionally been a concern that women inmates are not treated the same as their counterparts with respect to the availability of services, inmate classification and geographic placement. How would you assess the situation today?

A. Since the establishment of the Bureau's Female Offender Section, we have come to realize that some staffing patterns in our female facilities needed adjustment to assure parity with male institutions in programs and services.

APPENDIX 3.—SLIP OPINION, WILSON v. SEITER, ET AL., SUPREME COURT CASE, JUNE 17, 1991

NOTE: Where it is feasible, a syllabus (headnote) will be released, as is being done in connection with this case, at the time the opinion is issued. The syllabus constitutes no part of the opinion of the Court but has been prepared by the Reporter of Decisions for the convenience of the reader. See *United States v. Detroit Lumber Co.*, 200 U. S. 321, 337.

# SUPREME COURT OF THE UNITED STATES

## Syllabus

### WILSON v. SEITER ET AL.

#### CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE SIXTH CIRCUIT

No. 89-7376. Argued January 7, 1991—Decided June 17, 1991

Petitioner Wilson, an Ohio prison inmate, filed suit under 42 U. S. C. § 1983 against respondents, state prison officials, alleging that certain conditions of his confinement constituted cruel and unusual punishment in violation of the Eighth and Fourteenth Amendments. His affidavits described the challenged conditions and charged that the authorities, after notification, had failed to take remedial action. The District Court granted summary judgment for respondents, and the Court of Appeals affirmed on the ground, *inter alia*, that the affidavits failed to establish the requisite culpable state of mind on the part of respondents.

#### Held:

1. A prisoner claiming that the conditions of his confinement violate the Eighth Amendment must show a culpable state of mind on the part of prison officials. See, e. g., *Whitley v. Albers*, 475 U. S. 312, 319. *Rhodes v. Chapman*, 452 U. S. 337, distinguished. An intent requirement is implicit in that Amendment's ban on cruel and unusual punishment. Wilson's suggested distinction between "short-term" or "one-time" prison conditions (in which a state-of-mind requirement would apply) and "continuing" or "systemic" conditions (where official state of mind would be irrelevant) is rejected. Pp. 2-7.

2. The "deliberate indifference" standard applied in *Estelle v. Gamble*, 429 U. S. 97, 106, to claims involving medical care applies generally to prisoner challenges to conditions of confinement. There is no merit to respondents' contention that that standard should be applied only in cases involving personal, physical injury, and that a malice standard is appropriate in cases challenging conditions. As *Whitley* teaches, the "wantonness" of conduct depends not on its effect on the prisoner, but on the constraints facing the official. Pp. 7-9.

## Syllabus

3. The Court of Appeals erred in failing to consider Wilson's claims under the "deliberate indifference" standard and applying instead a standard of "behavior marked by persistent malicious cruelty." It is possible that the error was harmless, since the court said that Wilson's affidavits established "[a]t best . . . negligence." Conceivably, however, the court would have reached a different disposition under the correct standard, and so the case is remanded for reconsideration on that basis. Pp. 10–11.

893 F. 2d 861, vacated and remanded.

SCALIA, J., delivered the opinion of the Court, in which REHNQUIST, C. J., and O'CONNOR, KENNEDY, and SOUTER, JJ., joined. WHITE, J., filed an opinion concurring in the judgment, in which MARSHALL, BLACKMUN, and STEVENS, JJ., joined.

NOTICE: This opinion is subject to formal revision before publication in the preliminary print of the United States Reports. Readers are requested to notify the Reporter of Decisions, Supreme Court of the United States, Washington, D. C. 20543, of any typographical or other formal errors, in order that corrections may be made before the preliminary print goes to press.

## SUPREME COURT OF THE UNITED STATES

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No. 89-7376

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PEARLY L. WILSON, PETITIONER *v.*  
RICHARD SEITER ET AL.

ON WRIT OF CERTIORARI TO THE UNITED STATES COURT OF  
APPEALS FOR THE SIXTH CIRCUIT

[June 17, 1991]

JUSTICE SCALIA delivered the opinion of the Court.

This case presents the questions whether a prisoner claiming that conditions of confinement constitute cruel and unusual punishment must show a culpable state of mind on the part of prison officials and, if so, what state of mind is required.

Petitioner Pearly L. Wilson is a felon incarcerated at the Hocking Correctional Facility (HCF) in Nelsonville, Ohio. Alleging that a number of the conditions of his confinement constituted cruel and unusual punishment in violation of the Eighth and Fourteenth Amendments, he brought this action under 42 U. S. C. §1983 against respondents Richard P. Seiter, then Director of the Ohio Department of Rehabilitation and Correction, and Carl Humphreys, then warden of HCF. The complaint alleged overcrowding, excessive noise, insufficient locker storage space, inadequate heating and cooling, improper ventilation, unclean and inadequate restrooms, unsanitary dining facilities and food preparation, and housing with mentally and physically ill inmates. Petitioner sought declaratory and injunctive relief, as well as \$900,000 in compensatory and punitive damages. App. 2-9, 53-54, 62-63.

The parties filed cross-motions for summary judgment with supporting affidavits. Petitioner's affidavits described the challenged conditions and charged that the authorities,



after notification, had failed to take remedial action. Respondents' affidavits denied that some of the alleged conditions existed, and described efforts by prison officials to improve the others.

The District Court granted summary judgment for respondents. The Court of Appeals for the Sixth Circuit affirmed, 893 F. 2d 861 (1990), and we granted certiorari, 498 U. S. — (1990).

## I

The Eighth Amendment, which applies to the States through the Due Process Clause of the Fourteenth Amendment, *Robinson v. California*, 370 U. S. 660, 666 (1962), prohibits the infliction of "cruel and unusual punishments" on those convicted of crimes. In *Estelle v. Gamble*, 429 U. S. 97 (1976), we first acknowledged that the provision could be applied to some deprivations that were not specifically part of the sentence but were suffered during imprisonment. We rejected, however, the inmate's claim in that case that prison doctors had inflicted cruel and unusual punishment by inadequately attending to his medical needs—because he had failed to establish that they possessed a sufficiently culpable state of mind. Since, we said, only the "unnecessary and wanton infliction of pain" implicates the Eighth Amendment, *id.*, at 104 (quoting *Gregg v. Georgia*, 428 U. S. 153, 173 (1976) (joint opinion) (emphasis added)), a prisoner advancing such a claim must, at a minimum, allege "deliberate indifference" to his "serious" medical needs. 429 U. S., at 106. "It is *only* such indifference" that can violate the Eighth Amendment, *ibid.* (emphasis added); allegations of "inadvertent failure to provide adequate medical care," *id.*, at 105, or of a "negligent . . . diagnos[is]," *id.*, at 106, simply fail to establish the requisite culpable state of mind.

*Estelle* relied in large measure on an earlier case, *Louisiana ex rel. Francis v. Resweber*, 329 U. S. 459 (1947), which involved not a prison deprivation but an effort to subject a prisoner to a second electrocution after the first attempt

failed by reason of a malfunction in the electric chair. There Justice Reed, writing for a plurality of the Court, emphasized that the Eighth Amendment prohibited “the *wanton* infliction of pain,” *id.*, at 463 (emphasis added). Because the first attempt had been thwarted by an “unforeseeable accident,” the officials lacked the culpable state of mind necessary for the punishment to be regarded as “cruel,” regardless of the actual suffering inflicted. “The situation of the unfortunate victim of this accident is just as though he had suffered the identical amount of mental anguish and physical pain in any other occurrence, such as, for example, a fire in the cell block.” *Id.*, at 464. Justice Frankfurter, concurring solely on the basis of the Due Process Clause of the Fourteenth Amendment, emphasized that the first attempt had failed because of “an innocent misadventure,” *id.*, at 470, and suggested that he might reach a different conclusion in “a hypothetical situation, which assumes a series of abortive attempts at electrocution or even a single, cruelly willful attempt,” *id.*, at 471.

After *Estelle*, we next confronted an Eighth Amendment challenge to a prison deprivation in *Rhodes v. Chapman*, 452 U. S. 337 (1981). In that case, inmates at the Southern Ohio Correctional Facility contended that the lodging of two inmates in a single cell (“double celling”) constituted cruel and unusual punishment. We rejected that contention, concluding that it amounts “[a]t most . . . to a theory that double celling inflicts pain,” *id.*, at 348–349, but not that it constitutes the “unnecessary and wanton infliction of pain” that violates the Eighth Amendment, *id.*, at 346. The Constitution, we said, “does not mandate comfortable prisons,” *id.*, at 349, and only those deprivations denying “the minimal civilized measure of life’s necessities,” *id.*, at 347, are sufficiently grave to form the basis of an Eighth Amendment violation.

Our holding in *Rhodes* turned on the objective component of an Eighth Amendment prison claim (was the deprivation sufficiently serious?), and we did not consider the subjective

component (did the officials act with a sufficiently culpable state of mind?). That *Rhodes* had not eliminated the subjective component was made clear by our next relevant case, *Whitley v. Albers*, 475 U. S. 312 (1986). There an inmate shot by a guard during an attempt to quell a prison disturbance contended that he had been subjected to cruel and unusual punishment. We stated:

“After incarceration, only the unnecessary and wanton infliction of pain . . . constitutes cruel and unusual punishment forbidden by the Eighth Amendment. To be cruel and unusual punishment, conduct that does not purport to be punishment at all must involve more than ordinary lack of due care for the prisoner’s interests or safety. . . . It is *obduracy and wantonness, not inadvertence or error in good faith*, that characterize the conduct prohibited by the Cruel and Unusual Punishments Clause, whether that conduct occurs in connection with establishing conditions of confinement, supplying medical needs, or restoring official control over a tumultuous cellblock.” *Id.*, at 319 (emphasis added; citations omitted; internal quotations omitted).

These cases mandate inquiry into a prison official’s state of mind when it is claimed that the official has inflicted cruel and unusual punishment.<sup>1</sup> See also *Graham v. Connor*, 490

<sup>1</sup>The concurrence would distinguish these cases on the ground that they did not involve “conditions of confinement” but rather “specific acts or omissions directed at individual prisoners.” *Post*, at 4. It seems to us, however, that if an individual prisoner is deprived of needed medical treatment, that is a condition of *his* confinement, whether or not the deprivation is inflicted upon everyone else. Undoubtedly deprivations inflicted upon all prisoners are, as a policy matter, of greater concern than deprivations inflicted upon particular prisoners, but we see no basis whatever for saying that the one is a “condition of confinement” and the other is not—much less that the one constitutes “punishment” and the other does not. The concurrence’s imaginative interpretation of *Estelle v. Gamble*, 429 U. S. 97 (1976), has not been imagined by the Courts of Appeals—or as far as we are aware even litigants before the Courts of Appeals—which have rou-

U. S. 386, 398 (1989). Petitioner concedes that this is so with respect to *some* claims of cruel and unusual prison conditions. He acknowledges, for instance, that if a prison boiler malfunctions accidentally during a cold winter, an inmate would have no basis for an Eighth Amendment claim, even if he suffers objectively significant harm. Reply Brief for Petitioner 12-14. Petitioner, and the United States as *amicus curiae* in support of petitioner, suggests that we should draw a distinction between "short-term" or "one-time" conditions (in which a state of mind requirement would apply) and "continuing" or "systemic" conditions (where official state of mind would be irrelevant). We perceive neither a logical nor a practical basis for that distinction. The source of the intent requirement is not the predilections of this Court, but the Eighth Amendment itself, which bans only cruel and unusual *punishment*. If the pain inflicted is not formally meted out *as punishment* by the statute or the sentencing judge, some mental element must be attributed to the inflicting officer before it can qualify. As Judge Posner has observed:

"The infliction of punishment is a deliberate act intended to chastise or deter. This is what the word means today; it is what it meant in the eighteenth century . . . [I]f [a] guard accidentally stepped on [a] prisoner's toe and broke it, this would not be punishment in anything remotely like the accepted meaning of the word, whether we consult the usage of 1791, or 1868, or 1985."

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tinely applied the "deliberate indifference" requirement to claims of prison-wide deprivation of medical treatment. See, e. g., *Toussaint v. McCarthy*, 801 F. 2d 1080, 1111-1113 (CA9 1986); *French v. Owens*, 777 F. 2d 1250, 1254-1255 (CA7 1985).

Of course the concurrence does not say that the deprivation must be imposed upon *all* prisoners to rise to the level of a "condition of confinement" and of "punishment"—only that it does not suffice if directed at "individual prisoners." One wonders whether depriving all the individual prisoners who are murderers would suffice; or all the individual prisoners in Cellblock B. The concurrence's distinction seems to us not only unsupportable in principle but unworkable in practice.

*Duckworth v. Franzen*, 780 F. 2d 645, 652 (CA7 1985), cert. denied, 479 U. S. 816 (1986).

See also *Johnson v. Glick*, 481 F. 2d 1028, 1032 (CA2) (Friendly, J.), ("The thread common to all [Eighth Amendment prison cases] is that 'punishment' has been deliberately administered for a penal or disciplinary purpose"), cert. denied *sub nom. John v. Johnson*, 414 U. S. 1033 (1973). Cf. *Block v. Rutherford*, 468 U. S. 576, 584 (1984); *Bell v. Wolfish*, 441 U. S. 520, 537-539 (1979). The long duration of a cruel prison condition may make it easier to *establish* knowledge and hence some form of intent, cf. *Canton v. Harris*, 489 U. S. 378, 390, n. 10 (1989); but there is no logical reason why it should cause the *requirement* of intent to evaporate. The proposed short-term/long-term distinction also defies rational implementation. Apart from the difficulty of determining the day or hour that divides the two categories (is it the same for *all* conditions?) the violations alleged in specific cases often consist of composite conditions that do not lend themselves to such pigeonholing. Cf. *McCarthy v. Bronson*, 500 U. S. —, — (1991) (slip op., at 6).<sup>2</sup>

<sup>2</sup>The concurrence, going beyond what both the petitioner and the United States have argued here, takes the position that *all* conditions that exist in prison, even though prison officials neither know nor have reason to know about them, constitute "punishment." For the reasons we have described, there is no basis for that position in principle, and it is contradicted by our cases. The concurrence purports to find support for it in two cases, *Hutto v. Finney*, 437 U. S. 678 (1978), and *Rhodes v. Chapman*, 452 U. S. 337 (1981). In *Hutto*, as the concurrence's description makes clear, the question whether the conditions remedied by the District Court's order constituted cruel and unusual punishment was not at issue. Indeed, apart from attorney's fees the only element of the order at issue in *any* respect pertained to "punitive isolation," *post*, at 2. Even if one were to think that we passed upon the "cruel and unusual punishment" point uninvited and *sub silentio*, punitive isolation is self-evidently inflicted with punitive intent. As for *Rhodes*, the concurrence describes that as addressing "for the first time a *disputed* contention that the conditions of confinement at a particular prison constituted cruel and unusual punishment." *Post*, at 2 (emphasis in original). What it does not mention is that the only element

The United States suggests that a state-of-mind inquiry might allow officials to interpose the defense that, despite good-faith efforts to obtain funding, fiscal constraints beyond their control prevent the elimination of inhumane conditions. Even if that were so, it is hard to understand how it could control the meaning of "cruel and unusual punishment" in the Eighth Amendment. An intent requirement is either implicit in the word "punishment" or is not; it cannot be alternately required and ignored as policy considerations might dictate. At any rate, the validity of a "cost" defense as negating the requisite intent is not at issue in this case, since respondents have never advanced it. Nor, we might note, is there any indication that other officials have sought to use such a defense to avoid the holding of *Estelle v. Gamble*, 429 U. S. 97 (1976).

### III

Having determined that Eighth Amendment claims based on official conduct that does not purport to be the penalty formally imposed for a crime require inquiry into state of mind, it remains for us to consider what state of mind applies in cases challenging prison conditions. As described above, our cases say that the offending conduct must be *wanton*. *Whitley* makes clear, however, that in this context wantonness does not have a fixed meaning but must be determined with "due regard for differences in the kind of conduct against which an Eighth Amendment objection is lodged." 475 U. S., at 320. Where (as in *Whitley*) officials act in response to a prison disturbance, their actions are necessarily taken "in haste, under pressure," and balanced against "competing institutional concerns for the safety of prison staff or other inmates." *Ibid.* In such an emergency situation, we

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disputed (as well as the only element decided, see *ante*, at 3) was whether the conditions were a sufficiently serious deprivation to violate the constitutional standard. When that is borne in mind, it is evident that the lengthy quotation from that case set forth in the concurrence, *post*, at 3-4, provides no support, even by way of dictum, for the concurrence's position.

found that wantonness consisted of acting “‘maliciously and sadistically for the very purpose of causing harm.’” *Id.*, at 320–321 (quoting *Johnson*, 481 F. 2d, at 1033). See also *Dudley v. Stubbs*, 489 U. S. 1034, 1037–1038 (1989) (O’CONNOR, J., dissenting from denial of certiorari). In contrast, “the State’s responsibility to attend to the medical needs of prisoners does not ordinarily clash with other equally important governmental responsibilities,” *Whitley*, 475 U. S., at 320, so that in that context, as *Estelle* held, “deliberate indifference” would constitute wantonness.

The parties agree (and the lower courts have consistently held, see, e. g., *LaFaut v. Smith*, 834 F. 2d 389, 391–392 (CA4 1987)) that the very high state of mind prescribed by *Whitley* does not apply to prison conditions cases. Petitioner argues that, to the extent officials’ state of mind is relevant at all, there is no justification for a standard more demanding than *Estelle*’s “deliberate indifference.” Respondents counter that “deliberate indifference” is appropriate only in “cases involving personal injury of a physical nature,” and that a malice standard should be applied in cases such as this, which “do not involve . . . detriment to bodily integrity, pain, injury, or loss of life.” Brief for Respondents 28–29.

We do not agree with respondents’ suggestion that the “wantonness” of conduct depends upon its effect upon the prisoner. *Whitley* teaches that, assuming the conduct is harmful enough to satisfy the objective component of an Eighth Amendment claim, see *Rhodes v. Chapman*, 452 U. S. 337 (1981), whether it can be characterized as “wanton” depends upon the constraints facing the *official*. From that standpoint, we see no significant distinction between claims alleging inadequate medical care and those alleging inadequate “conditions of confinement.” Indeed, the medical care a prisoner receives is just as much a “condition” of his confinement as the food he is fed, the clothes he is issued, the temperature he is subjected to in his cell, and the protection he is afforded against other inmates. There is no indication

that, as a general matter, the actions of prison officials with respect to these nonmedical conditions are taken under materially different constraints than their actions with respect to medical conditions. Thus, as retired Justice Powell has concluded: "Whether one characterizes the treatment received by [the prisoner] as inhumane conditions of confinement, failure to attend to his medical needs, or a combination of both, it is appropriate to apply the 'deliberate indifference' standard articulated in *Estelle*." *LaFaut*, 834 F. 2d, at 391-392. See also *Lopez v. Robinson*, 914 F. 2d 486, 492 (CA4 1990); *Givens v. Jones*, 900 F. 2d 1229, 1234 (CA8 1990); *Cortes-Quinones v. Jimenez-Nettleship*, 842 F. 2d 556, 558 (CA1), cert. denied, 488 U. S. 823 (1988); *Morgan v. District of Columbia*, 263 U. S. App. D.C. 69, 77-78, 824 F. 2d 1049, 1057-1058 (1987).

#### IV

We now consider whether, in light of the foregoing analysis, the Sixth Circuit erred in affirming the District Court's grant of summary judgment in respondents' favor.

As a preliminary matter, we must address petitioner's contention that the Court of Appeals erred in dismissing, before it reached the state-of-mind issue, a number of claims (inadequate cooling, housing with mentally ill inmates, and overcrowding) on the ground that, even if proved, they did not involve the serious deprivation required by *Rhodes*. A court cannot dismiss any challenged condition, petitioner contends, as long as other conditions remain in dispute, for each condition must be "considered as part of the overall conditions challenged," Brief for Petitioner 36. Petitioner bases this contention upon our observation in *Rhodes* that conditions of confinement, "alone or in combination," may deprive prisoners of the minimal civilized measure of life's necessities. 452 U. S., at 347.

As other courts besides the Court of Appeals here have understood, see *Wellman v. Faulkner*, 715 F. 2d 269, 275 (CA7 1983), cert. denied, 468 U. S. 1217 (1984); *Hoptowit v. Ray*,



682 F. 2d 1237, 1247 (CA9 1982); *Wright v. Rushen*, 642 F. 2d 1129, 1133 (CA9 1981), our statement in *Rhodes* was not meant to establish the broad proposition that petitioner asserts. Some conditions of confinement may establish an Eighth Amendment violation "in combination" when each would not do so alone, but only when they have a mutually enforcing effect that produces the deprivation of a single, identifiable human need such as food, warmth, or exercise—for example, a low cell temperature at night combined with a failure to issue blankets. Compare *Spain v. Procunier*, 600 F. 2d 189, 199 (CA9 1979) (outdoor exercise required when prisoners otherwise confined in small cells almost 24 hours per day) with *Clay v. Miller*, 626 F. 2d 345, 347 (CA4 1980) (outdoor exercise not required when prisoners otherwise had access to day room 18 hours per day). To say that some prison conditions may interact in this fashion is a far cry from saying that all prison conditions are a seamless web for Eighth Amendment purposes. Nothing so amorphous as "overall conditions" can rise to the level of cruel and unusual punishment when no specific deprivation of a single human need exists. While we express no opinion on the relative gravity of the various claims that the Sixth Circuit found to pass and fail the threshold test of serious deprivation, we reject the contention made here that no claim can be found to fail that test in isolation.

After disposing of the three claims on the basis of *Rhodes*, the Court of Appeals proceeded to uphold the District Court's dismissal of petitioner's remaining claims on the ground that his affidavits failed to establish the requisite culpable state of mind. The critical portion of its opinion reads as follows:

"[T]he *Whitley* standard of obduracy and wantonness requires behavior marked by persistent malicious cruelty. The record before us simply fails to assert facts suggesting such behavior. At best, appellants' claim evidences negligence on appellees' parts in implementing standards

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for maintaining conditions. Negligence, clearly, is inadequate to support an eighth amendment claim." 893 F. 2d, at 867.

It appears from this, and from the consistent reference to "the *Whitley* standard" elsewhere in the opinion, that the court believed that the criterion of liability was whether the respondents acted "maliciously and sadistically for the very purpose of causing harm," *Whitley*, 475 U. S., at 320-321. To be sure, mere negligence would satisfy neither that nor the more lenient "deliberate indifference" standard, so that any error on the point may have been harmless. Conceivably, however, the court would have given further thought to its finding of "[a]t best . . . negligence" if it realized that that was not merely an argument *a fortiori*, but a determination almost essential to the judgment. Out of an abundance of caution, we vacate the judgment of the Sixth Circuit and remand the case for reconsideration under the appropriate standard.

*It is so ordered.*

## SUPREME COURT OF THE UNITED STATES

No. 89-7376

PEARLY L. WILSON, PETITIONER *v.*  
RICHARD SEITER ET AL.

ON WRIT OF CERTIORARI TO THE UNITED STATES COURT OF  
APPEALS FOR THE SIXTH CIRCUIT

[June 17, 1991]

JUSTICE WHITE, with whom JUSTICE MARSHALL, JUSTICE BLACKMUN, and JUSTICE STEVENS join, concurring in the judgment.

The majority holds that prisoners challenging the conditions of their confinement under the Eighth Amendment must show “deliberate indifference” by the responsible officials. Because that requirement is inconsistent with our prior decisions, I concur only in the judgment.

It is well established, and the majority does not dispute, that pain or other suffering that is part of the punishment imposed on convicted criminals is subject to Eighth Amendment scrutiny without regard to an intent requirement. The linchpin of the majority’s analysis therefore is its assertion that “[i]f the pain inflicted is not formally meted out *as punishment by the statute or the sentencing judge*, some mental element must be attributed to the inflicting officer before it can qualify.” *Ante*, at 5 (emphasis added). That reasoning disregards our prior decisions that have involved challenges to conditions of confinement, where we have made it clear that the conditions are themselves *part of the punishment*, even though not specifically “meted out” by a statute or judge.

We first considered the relationship between the Eighth Amendment and conditions of confinement in *Hutto v. Finney*, 437 U. S. 678 (1978). There, the District Court had entered a series of remedial orders after determining that the

conditions in the Arkansas prison system violated the Eighth Amendment. The prison officials, while conceding that the conditions were cruel and unusual, challenged two aspects of the District Court's relief: (1) an order limiting punitive isolation to 30 days; and (2) an award of attorney's fees.

In upholding the District Court's limitation on punitive isolation, we first made clear that the conditions of confinement are part of the punishment that is subject to Eighth Amendment scrutiny:

"The Eighth Amendment's ban on inflicting cruel and unusual punishments, made applicable to the States by the Fourteenth Amendment, 'proscribe[s] more than physically barbarous punishments.' *Estelle v. Gamble*, 429 U. S. 97, 102 [(1976)]. It prohibits penalties that are grossly disproportionate to the offense, *Weems v. United States*, 217 U. S. 349, 367 [(1910)], as well as those that transgress today's "broad and idealistic concepts of dignity, civilized standards, humanity, and decency.'" *Estelle v. Gamble*, *supra*, at 102, quoting *Jackson v. Bishop*, 404 F. 2d 571, 579 (CA8 1968). *Confinement in a prison or in an isolation cell is a form of punishment subject to scrutiny under Eighth Amendment standards.*" *Id.*, at 685 (emphasis added).

Focusing only on the objective conditions of confinement, we then explained that we found "no error in the [district] court's conclusion that, taken as a whole, conditions in the isolation cells continued to violate the prohibition against cruel and unusual punishment." *Id.*, at 687.

In *Rhodes v. Chapman*, 452 U. S. 337 (1981), we addressed for the first time a *disputed* contention that the conditions of confinement at a particular prison constituted cruel and unusual punishment. See *id.*, at 344-345. There, prisoners challenged the "double celling" of inmates at an Ohio prison. In addressing that claim, we began by reiterating the various bases for an Eighth Amendment challenge:

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"Today the Eighth Amendment prohibits punishments which, although not physically barbarous, 'involve the unnecessary and wanton infliction of pain,' *Gregg v. Georgia*, [428 U. S. 153,] 173 [(1976)], or are grossly disproportionate to the severity of the crime, *Coker v. Georgia*, 433 U. S. 584, 592 (1977) (plurality opinion); *Weems v. United States*, 217 U. S. 349 (1910). Among 'unnecessary and wanton' inflictions of pain are those that are 'totally without penological justification.' *Gregg v. Georgia*, *supra*, at 183; *Estelle v. Gamble*, 429 U. S. 97, 103 (1976).

"No static 'test' can exist by which courts determine whether conditions of confinement are cruel and unusual, for the Eighth Amendment 'must draw its meaning from the evolving standards of decency that mark the progress of a maturing society.' *Trop v. Dulles*, 356 U. S. 86, 101 (1958) (plurality opinion)." *Id.*, at 346 (footnote omitted).

We then explained how those principles operate in the context of a challenge to conditions of confinement:

*"These principles apply when the conditions of confinement compose the punishment at issue. Conditions must not involve the wanton and unnecessary infliction of pain, nor may they be grossly disproportionate to the severity of the crime warranting imprisonment. In Estelle v. Gamble, supra, we held that the denial of medical care is cruel and unusual because, in the worst case, it can result in physical torture, and, even in less serious cases, it can result in pain without any penological purpose. 429 U. S., at 103. In Hutto v. Finney, supra, the conditions of confinement in two Arkansas prisons constituted cruel and unusual punishment because they resulted in unquestioned and serious deprivations of basic human needs. Conditions other than those in Gamble and Hutto, alone or in combination, may deprive*

inmates of the minimal civilized measure of life's necessities. Such conditions could be cruel and unusual under the contemporary standard of decency that we recognized in *Gamble, supra*, at 103-104." *Id.*, at 347 (emphasis added).

Finally, we applied those principles to the conditions at issue, and found that "there is no evidence that double celling under these circumstances either inflicts unnecessary or wanton pain or is grossly disproportionate to the severity of crimes warranting imprisonment." *Id.*, at 348. *Rhodes* makes it crystal clear, therefore, that Eighth Amendment challenges to conditions of confinement are to be treated like Eighth Amendment challenges to punishment that is "formally meted out as punishment by the statute or the sentencing judge," *ante*, at 5—we examine only the objective severity, not the subjective intent of government officials.

The majority relies upon our decisions in *Louisiana ex rel. Francis v. Resweber*, 329 U. S. 459 (1947); *Estelle v. Gamble*, 429 U. S. 97 (1976); and *Whitley v. Albers*, 475 U. S. 312 (1986), but none of those cases involved a challenge to conditions of confinement. Instead, they involved challenges to specific acts or omissions directed at individual prisoners. In *Gamble*, for example, the challenge was not to a general lack of access to medical care at the prison, but to the allegedly inadequate delivery of that treatment to the plaintiff. Similarly, in *Whitley* the challenge was to the action of a prison guard in shooting the plaintiff during a riot, not to any condition in the prison. The distinction is crucial because "unlike 'conduct that does not purport to be punishment at all' as was involved in *Gamble* and *Whitley*, the Court has not made intent an element of a cause of action alleging unconstitutional conditions of confinement." *Gillespie v. Crawford*, 833 F. 2d 47, 50 (CA5 1987) (*per curiam*), reinstated in part en banc, 858 F. 2d 1101, 1103 (CA5 1988).

Moreover, *Whitley* expressly supports an objective standard for challenges to conditions of confinement. There, in discussing the Eighth Amendment, we stated:

“An express intent to inflict unnecessary pain is not required, *Estelle v. Gamble*, 429 U. S. 97, 104 (1976) (‘deliberate indifference’ to a prisoner’s serious medical needs is cruel and unusual punishment), and *harsh ‘conditions of confinement’ may constitute cruel and unusual punishment* unless such conditions ‘are part of the penalty that criminal offenders pay for their offenses against society.’ *Rhodes v. Chapman*, 452 U. S. 337, 347 (1981).” 475 U. S., at 319 (emphasis added).

The majority places great weight on the subsequent dictum in *Whitley* that “[i]t is obduracy and wantonness, not inadvertence or error in good faith, that characterize the conduct prohibited by the Cruel and Unusual Punishments Clause, whether that conduct occurs in connection with establishing conditions of confinement, supplying medical needs, or restoring official control over a tumultuous cellblock.” *Ibid.* See *ante*, at 4. The word “conduct” in that statement, however, is referring to “conduct that does not purport to be punishment at all,” 475 U. S., at 319, rather than to the “harsh ‘conditions of confinement’” referred to earlier in the opinion.

Not only is the majority’s intent requirement a departure from precedent, it likely will prove impossible to apply in many cases. Inhumane prison conditions often are the result of cumulative actions and inactions by numerous officials inside and outside a prison, sometimes over a long period of time. In those circumstances, it is far from clear whose intent should be examined, and the majority offers no real guidance on this issue. In truth, intent simply is not very meaningful when considering a challenge to an institution, such as a prison system.<sup>1</sup>

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<sup>1</sup> It is telling that the lower courts often have examined only the objective conditions, and not the subjective intent of government officials, when

The majority's approach also is unwise. It leaves open the possibility, for example, that prison officials will be able to defeat a § 1983 action challenging inhumane prison conditions simply by showing that the conditions are caused by insufficient funding from the state legislature rather than by any deliberate indifference on the part of the prison officials. See *ante*, at 7.<sup>2</sup> In my view, having chosen to use imprisonment as a form of punishment, a state must ensure that the conditions in its prisons comport with the "contemporary standard of decency" required by the Eighth Amendment. See *DeShaney v. Winnebago Cty. Dept. of Social Services*, 489 U. S. 189, 198-200 (1989). As the United States argues: "[S]eriously inhumane, pervasive conditions should not be insulated from constitutional challenge because the officials managing the institution have exhibited a conscientious concern for ameliorating its problems, and have made efforts (albeit unsuccessful) to that end." Brief for United States as *Amicus Curiae* 19. The ultimate result of today's decision, I fear, is that "serious deprivations of basic human needs," *Rhodes, supra*, at 347, will go unredressed due to an unnecessary and meaningless search for "deliberate indifference."

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considering Eighth Amendment challenges to conditions of confinement. See, e. g., *Tillery v. Owens*, 907 F. 2d 418, 426-428 (CA3 1990); *Foulds v. Corley*, 833 F. 2d 52, 54-55 (CA5 1987); *French v. Owens*, 777 F. 2d 1250, 1252-1254 (CA7 1985), cert. denied, 479 U. S. 817 (1986); *Hoptowit v. Spellman*, 753 F. 2d 779, 784 (CA9 1985).

<sup>2</sup> Among the lower courts, "[i]t is well established that inadequate funding will not excuse the perpetuation of unconstitutional conditions of confinement." *Smith v. Sullivan*, 611 F. 2d 1039, 1043-1044 (CA5 1980). See also, e. g., *Wellman v. Faulkner*, 715 F. 2d 269, 274 (CA7 1983), cert. denied, 468 U. S. 1217 (1984); *Ramos v. Lamm*, 639 F. 2d 559, 573, n. 19 (CA10 1980), cert. denied, 450 U. S. 1041 (1981); *Battle v. Anderson*, 564 F. 2d 388, 396 (CA10 1977); *Gates v. Collier*, 501 F. 2d 1291, 1319 (CA5 1974).



# APPENDIX 4.—NEWS ARTICLE FROM THE WASHINGTON POST, "NUMBER OF IMPRISONED DRUG OFFENDERS UP SHARPLY," APRIL 25, 1991

THE WASHINGTON POST

THURSDAY, APRIL 25, 1991

## Number of Imprisoned Drug Offenders Up Sharply

*They Now Make Up More Than Half of Federal Inmate Population, House Panel Told*

By Michael Isikoff  
Washington Post Staff Writer

The number of drug offenders serving time in federal prisons has more than doubled to almost 33,000 in the past two years, and those inmates now account for more than half of the federal prison population, according to U.S. Bureau of Prisons statistics released yesterday.

The dramatic growth of those convicted of trafficking and other federal drug felonies is expected to continue for the foreseeable future and will help drive the total federal prison population from the current 61,536 to nearly 100,000 by 1995, federal prisons director Michael J. Quinlan told a House Judiciary subcommittee. By that year, drug offenders—who made up one-fourth of all federal prisoners 10 years ago—will account for 69 percent of the population, Quinlan said.

The new projections dramatically illustrate the nation's escalating anti-drug effort and its impact on the criminal justice system. A separate Justice Department study released yesterday found that 23 percent of the nearly 400,000 men and

The new figures are "astounding—what they show is that the war on drugs is eating up the criminal justice system," said Eric Sterling, president of the Criminal Justice Policy Foundation, a group that has been promoting alternatives to incarceration to deal with the nation's drug problems, and supports legalization of drugs with tight regulation. "Important types of crimes are being ignored or disregarded in an effort to prosecute drug cases."

Quinlan said the growth in drug felony convictions has caused overcrowding in the federal prison system to increase to 160 percent of capacity, forcing the bureau to sharply escalate its prison-building program and search for innovative ways to house prisoners. Military bases targeted for closure, and unused or closed mental hospitals, research centers, college campuses and, in one case, a former seminary, are being studied or have recently been converted to house inmates.

The bureau, which in recent years has become the fastest growing portion of the Justice Department budget, is requesting more than \$2.1 billion to run the federal prison system in fiscal year 1992, a 24 percent increase over this year. The funding request includes \$314 million in construction money to add another 3,600 beds to the system.

Although the drug war has enjoyed enthusiastic support on Capitol Hill, the spiraling cost of housing its casualties is causing increasing concern among some members of Congress. This week, Sen. Sam Nunn (D-Ga.), chairman of the Senate permanent subcommittee on investigations, released a General

Accounting Office report recommending that the bureau could save hundreds of millions of dollars in construction costs by "double-bunking," or putting two inmates in each cell.

The report also recommended that the bureau reduce its minimum standards for new facilities of 90 square feet per cell. "We need to rethink the definition of overcrowding..." Nunn said.

But Quinlan adamantly rejected that proposal, saying moving two inmates into one cell, particularly at medium security sites, could create massive management problems for prison officials and force them to crowd ever-larger numbers of "dangerous people" into one institution.

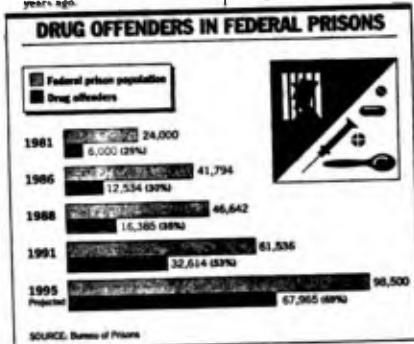
In addition, "a lot of these institutions were built in 1900... and some have only 45 square foot cell sizes," he said in an interview. "To say there should be two men in a cell is a farce... I think it raises serious constitutional problems."

The driving force behind the explosion in drug offenders has been a series of anti-drug and anti-crime laws passed by Congress throughout the 1980s, imposing stiff mandatory sentences for drug crimes, abolishing parole and authorizing large increases in the number of federal prosecutors and agents. Quinlan noted yesterday that the average sentence for drug offenders has grown from 27 months five years ago to 78 months today.

And while a growing number of the bureau's prisons will offer comprehensive treatment programs next year, Quinlan noted that a large portion of the new offenders are not necessarily drug users. "Some of them are pure entrepreneurs," he said.

*The bureau is requesting a 24 percent increase in funding.*

women being held in local jails in 1989 had been charged with drug crimes—up from 9 percent six years ago.



APPENDIX 5.—NEWS ARTICLE FROM THE WASHINGTON POST, "STUDY: 1 IN 4 BLACK MEN IS IN JAIL OR COURT-SUPERVISED," FEBRUARY 27, 1990

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## Study: 1 in 4 Young Black Men Is in Jail or Court-Supervised

*Author Warns of Risk of Losing 'Entire Generation'*

By Bill McAllister  
 Washington Post Staff Writer

Nearly one in four young black men in America is behind bars or on parole or probation, according to statistics released yesterday by an advocacy group, which said the finding "should be disturbing to all Americans."

Although many government officials have voiced alarm at the disproportionate number of young black men in prison, the study by the Sentencing Project, a Washington-based group that urges alternatives to prison sentences, was the first to offer a projection of the total number of young black men believed to be under court supervision.

Project researchers estimated the total by devising a projection of the number on probation and parole and combining that with estimates of young black men aged 20 to 29 in prison and jail, a number that has been available. The group said its estimate, 609,690, surpassed the number of black men enrolled in higher education in 1986, 436,000.

The project said that means that 23 percent of black men 20 to 29 were subject to the criminal justice system, a rate that compared to 1 in 16 white men and 1 in 10 Hispanics of the same age group.

"We now risk the possibility of writing off an entire generation of black men from leading productive lives," said Marc Maurer, author of the study and an assistant director of the Sentencing Project. The group is funded by the Public Welfare Foundation of Washington and the Edna McConnell Clark Foundation, a fund Maurer said was created by one of the heirs to the Avon cosmetic fortune.

In his report, Maurer qualified his estimates as "close approximations" and said his totals "should not be considered exact calculations." He could not cite a "margin of error" for his population projections. The margin of error is a standard statistical measurement that is used to determine how accurate such findings may be.

Even so, Joseph M. Bessette, acting director of the Justice Department's Bureau of Justice Statistics, gave a qualified endorsement to the finding. "It looks correct to us if you are willing to make one critical assumption," he said.

That assumption is that the same percentage of black men aged 20 to 29 are on probation and parole as are in the nation's jails and prisons. While precise statistics are maintained for jail and prison inmates, Bessette said that no organization keeps statistics by age on individuals on parole (those released after completing a portion of a jail

or prison sentence) and probation (those released without any time behind bars).

He called the assumptions "reasonable" and said the overall finding seems to parallel the bureau's studies.

Rep. John Conyers (D-Mich.), chairman of the House Government Operations Committee and a leading member of the Congressional Black Caucus, expressed shock at the findings and said he would ask the General Accounting Office to conduct a more detailed study.

"I want to build up the credibility around these numbers, not because I have any doubts about it," he said. He described the findings as "groundbreaking, the hardest numbers that have been crunched out" about the number of black men under court supervision.

Writing last year in the "Black Issues in Higher Education," an academic journal, Ed Wiley III and Jacqueline Conciatore said that the number of black men in prison was likely to have increased sharply with the recent increase in the number of people incarcerated. The article also noted that most studies have shown that the percentage of black inmates seems to have remained fairly steady in recent years. It also cited a number of reasons for the disproportionate numbers of blacks imprisoned: lack of jobs, lack of strong adult male role models, and "inequity in our justice system."

The Sentencing Project report did not attempt to explain why a large percentage of blacks are involved in the criminal justice system.

APPENDIX 6.—NEWS ARTICLE FROM THE WASHINGTON POST, "PEACE  
DIVIDEND: \$50,000 PER PRISONER," FEBRUARY 26, 1990

## Peace Dividend: \$50,000 per Prisoner

What's the logical implication of the following four facts?

**Fact 1:** America, feeling beset by crime and drugs, can't build prisons fast enough. In the last year alone, the prison population went up 11 percent to 819,000. In New York it went up 15 percent to 49,000. Even so, the continuing scarcity of cells discourages judges from handing out prison terms.

**Fact 2:** Each new maximum-security one-person cell costs, in New York, about \$100,000 to build, and that includes no operating costs.

**Fact 3:** Some jurisdictions are experimenting with prison "boot camps," spartan but less secure barracks for certain convicts. The idea is to test the harsh discipline of "shock incarceration," but the experience also offers some financial lessons: each bed in such an institution probably costs less than \$50,000.

**Fact 4:** With troop reductions imminent, the Defense Department is talking about closing a number of military bases around the country.

The four facts encourage discussion of converting military bases for use as prisons. It is unrealistic to think of grabbing this part of the "peace dividend" to expand high-security prisons, but the surplus bases could offer a quick, cheap way to expand prison "boot camps."

Defense Secretary Richard Cheney recently proposed closing 21 military bases beyond the 86 that were approved for closing last year. The new list would eliminate or shrink such venerable installations as Fort Ord, Calif., and Fort Hood, Tex.

Why not use such places to expand prison capacity? The bases are not easily converted for maximum-security use for a simple reason: Most soldiers are motivated to behave themselves, while many convicts are not. Thus it is possible to manage and supervise soldiers in open barracks with communal baths and toilets, while convicts require indi-

vidual locked cells, each with its own plumbing. It is the cost of security, not of luxurious comforts like Nautilus machines and television, that drives the expense of prison construction.

Still, not all correctional programs require heavy security. A few states have been experimenting with "shock incarceration" — allowing certain inmates to volunteer for shorter terms of military-like training, education and drug treatment.

In New York, where such a "boot camp" program began in 1987, some 1,200 men and women now participate. Young offenders serving first terms of three years or less may earn release if they survive six months of rigorous physical training, education and counseling.

The shock inmates have a powerful reason to behave. They are working for early release; failure means return to conventional prison to finish their full term. As a result, shock programs do not require anything like the physical security of the traditional penitentiary. Besides, much of the activity resembles military drill; there's good reason to think old bases could be easily adapted for correctional use — perhaps at much less than \$50,000 per bed.

The idea could bring even larger savings. With inmates serving shorter terms, operating costs also would be vastly reduced. A study of 171 recent graduates from the New York program calculates that if they had instead served their full terms, it would have cost taxpayers an additional \$2.8 million, \$16,000 for each. The study also found no measurable threat to public safety.

Shock incarceration in prison camps offers an orderly, affordable way to expand prison capacity and save millions. With experts agreed that certain punishment is far more important than length of sentence, that's an excellent deal all the way around.





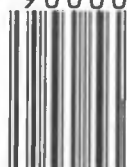




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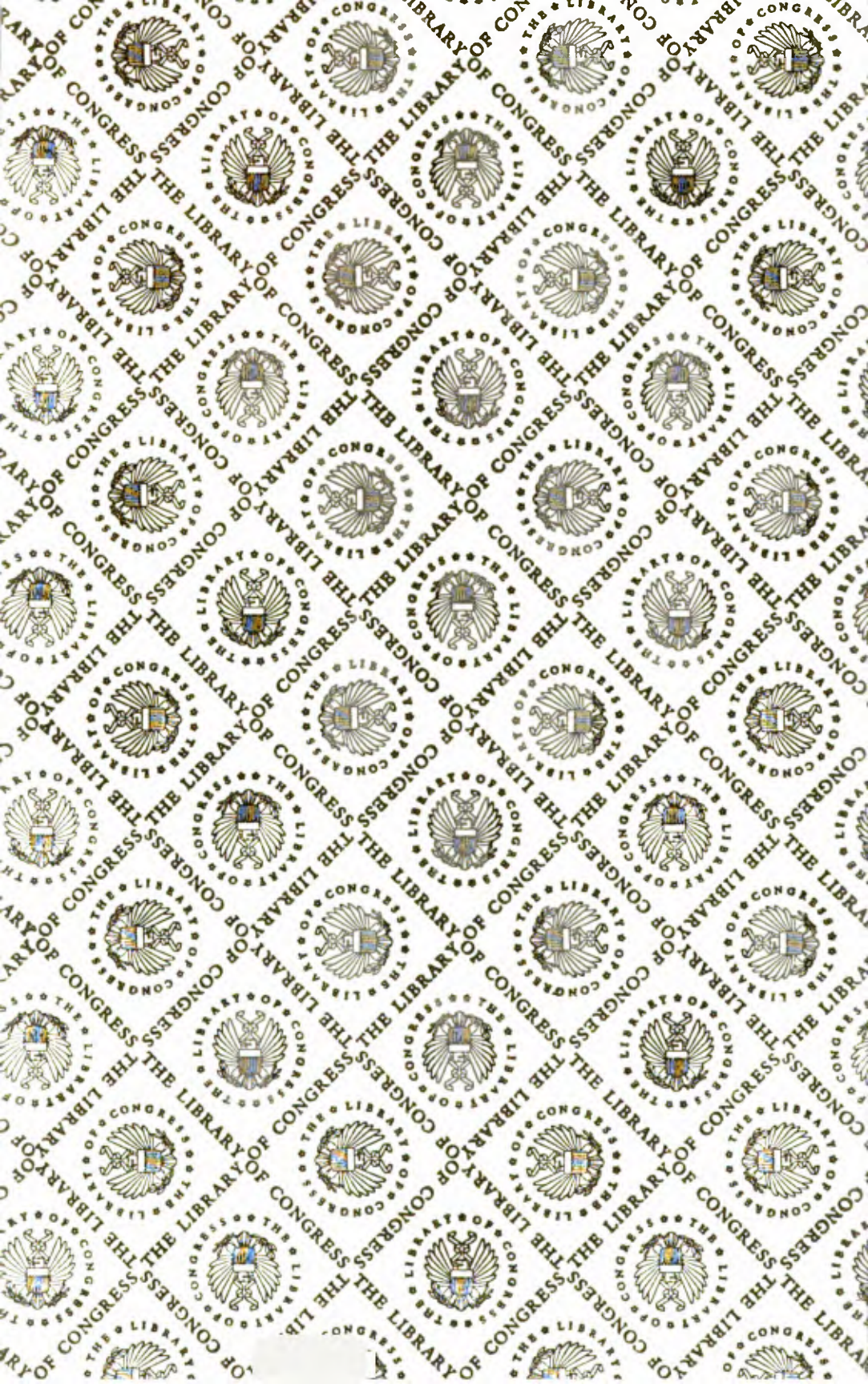


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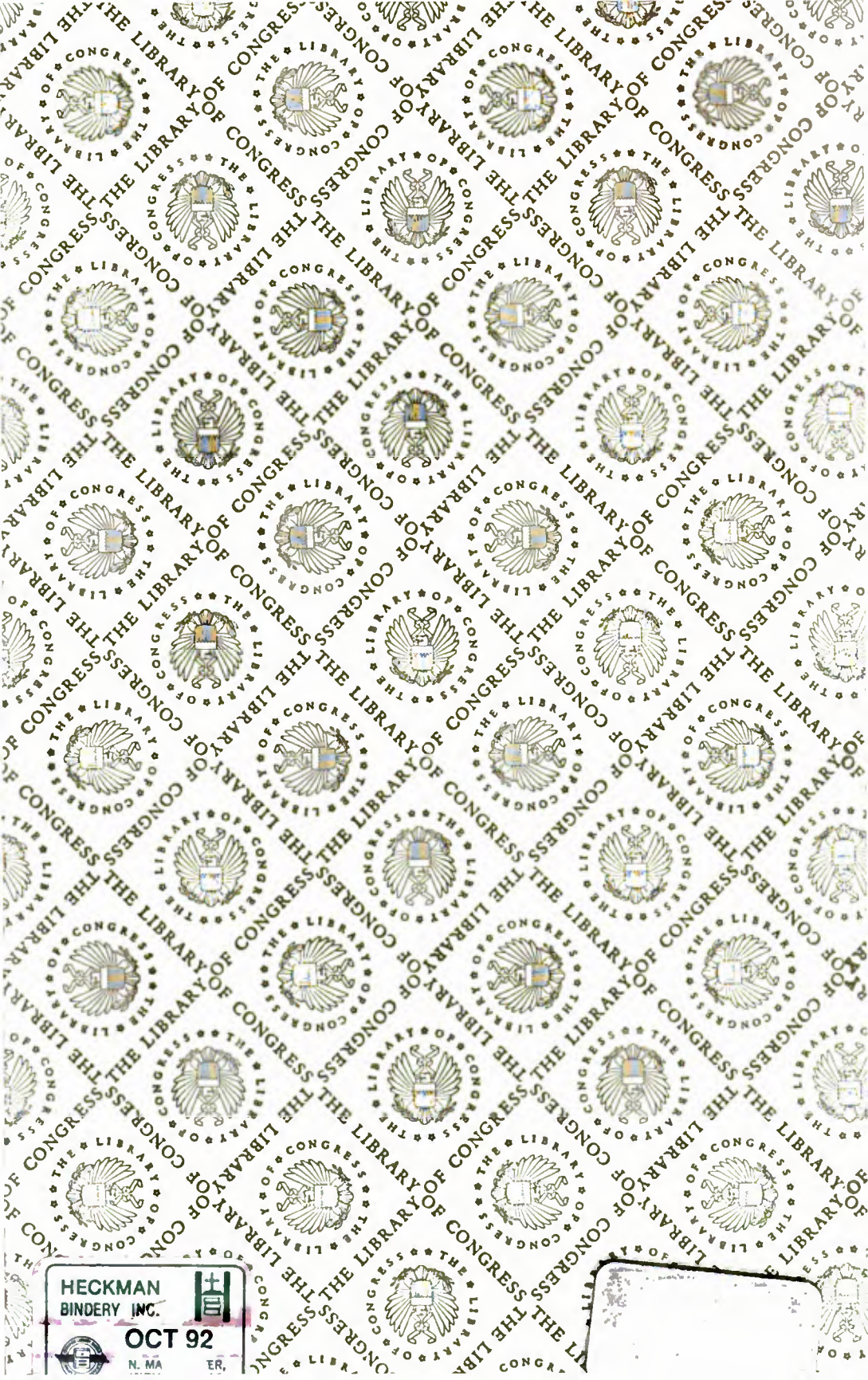
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